

2017-18972 VERSUS WEST VIRGINIA STATE EMPLOYEES RETIREMENT
BONNIE B. WILFORD, DEFENDANT.

Message Address:

Poison,

To:

EXCERPT NO. 06-08-1-01

Potterton County Board of Education

University

Transcripts of two CDR's provided by the Law Office of James Miller, 100 Capitol Street, Suite 400, Charleston, West Virginia, 25301, identified on the CDR's as Address 06-08-1-01_1-0-3-4-0-0 for the above-named entity.

RECORDED TRANSCRIPTION SERVICE
(800) 378-1480

JUDGE DRAKE: (Inaudible) hearing of 1) establish presence in the court of Norman Alderman versus the Pontotoc County Board of Education, Doctor Heather 08-09-042. That action has been given. The cause is properly captioned before Judge M. Chapman, Administrative Law Judge on the 10th day of July 2008, witness in person and is represented by Counsel Bruce Hahn and the Board of Education is represented by Counsel Greg Bailey. This was a disciplinary proceeding so the Board of Education has the burden of proof. Do you have an opening statement Mr. Bailey?

MR. BAILEY: Yes, just very briefly. It was noted before we went on the record, the State basically about what occurred or already on the record. We don't really need to repeat a great deal of time reviewing those facts. You have the benefit of the post-trial communication by Mr. Alderman with the Disaster-Relief Staff as well as the Testimony Hearing that occurred. The primary focus of the audience that we had to offer today regards of the adverse effect that Mr. Alderman's conduct will have, or would have had, upon the ability of the Board to effectively conduct its affairs. I think the evidence clearly demonstrates that Mr. Alderman engaged in conduct which the may be considered by him as a tactic to凌辱(Mess) these records. That tactic being to openly threaten and engage in conduct beligerent and that if the regular tree proved insufficient to that as a resource rather than travel from on records. And I have heard that the opponent claims that well that attorney has a right to do precisely Mr. Alderman's long service to the Board without a history of any disciplinary problems. However, if you put this in the context that was taken by Mr. Alderman and the language that is contained in the appeal that he filed, it is readily apparent that Mr. Alderman preferred to believe that he has no obligation to engage in conduct beligerent. He has offends me.

REEDMORE TRANSCRIPTION SERVICE
(804) 339-0385

amount of regret or remorse or even acknowledge that he did anything wrong. And I think this is probably highlighted by the fact that he looked at the relief that he is seeking, (unjust) calling it an apology from the Board. And there are two of them to help you see that the kind of behavior is matching the (unjust). so that you can't call the respondent a codicil, you can't call the trustee a codicil and a codicil is like making out to the without compensation. We have the evidence that illustrates that there is no legitimate whatever that the present of that case entitles to offer his reader. To the contrary his behavior that he has every entitlement to continue to believe exactly as he has believed. So the focus of our evidence is going to be that the conduct has the effect, or had the effect, of undermining the effectiveness of the Board as depicted by Mr. Alberman's persistence in the belief that he is entitled to engage in the very conduct that resulted in his termination and the likelihood that the Board would suffer as a result of that in terms of its ability to carry out its functions as a Board will be the focus of our evidence.

JUDGE SPATAFORO: Okay. Thank you.

MR. HUBBIE: Your Honor, it is unfair to point out that the conduct that Mr. Bailey refers to is actually Mr. Alberman's speech. If you look at the termination letter and if you look at the charge that they weighed of that he had an unexcused leaving, that is the focus for the question. Mr. Alberman is a 20 year veteran of the school board. He was the teacher of the year. He has engaged in community activities almost every year he has been a member of the school board. He has never ever been disciplined, never been reprimanded, never been suspended with or without pay. And based on the things that he will say are taking place right now, without any correspondence whatever,

of our love of progressive discipline. Despite the fact that the school board policies provide that the Board is to strive to meet personnel in every way possible to adjust to their positions and to perform their duties satisfactorily. The school board at the recent town goes has a waiting, never offered him an appointment plan. And this is all assuming that they can see him for his speech. I'll give that one appeal. But even if they could find him in his speech, what he did in the course of the meeting, Mr. Shultz if your letter to the voters and much the voters, he was seated the entire time. He never interrupted anybody, he never assaulted anybody. He was never told out of order. During that same meeting nobody told Mr. Alderman you are out of order. There were people in attendance that will probably come in and testify to say what they felt about it, but the Board of County never did he was out of order. And then in his second and one his speech and his position is that you're having to terminate a 20-year employee to save a few dollars. But let's go to the last of them. I don't know if you know anything about Mr. Alderman, but he is not only an excellent teacher, but he is also a community member. He has a church. He has served his family in the community. He's got two kids, his wife is here with him today. He was a disease elected public official to the Pocahontas County Commission and he's a political activist. And he has been advocating and only the school board, but other public agencies at the county for a while in 2000 Audit, or in 2001 the really came to a head. And this goes to the basis of our theory that the termination is really sort of a报复性 compensation the Board to retaliate against Mr. Alderman for his protestation activities. And Mr. Tracy and the Norman would an apology. Well let me read to you what the Pocahontas County School Board did on October 27, 2001 after on April 8, 2002 they had Mr. Alderman hosted on

of the Board meeting or handled it because he wanted to take over the school Board meeting. They literally had him arrested and tried to prosecute him because he wanted to voice his a public meeting. And you know what happened as a result of that lawsuit that we filed in Federal Court and I represented him on. On October 21, 2003 our attorney advised that the Franklin County Board of Education and an individual attorney apologize to Harrison Adkinson for violating his right pursuant to the First Amendment to the U.S. Constitution by attempting to prohibit him from recording April 8, 2002, the only reason to apologize because they violated his rights, not like they did in the prior sessions. Now since you'll know that he has an electronic newsletter and gave a hard copy newsletter that he wrote to his constituents, but everything that he did was privileged and protected by the First Amendment. And that morally solidifies the mission of the the horizon of public education in Franklin County. The people that are supposed to educate young students about the constitution and about civic and about responsibility have now terminated Mr. Adkinson because he was engaging in the very behavior that public education individuals are supposed to teach kids. We want people criticizing the government. Now he might have done it aggressively, he might have done it rudely, he might have done it the way you and I wouldn't have. In other words he didn't care about the words that he used. But the fact that he used words to express what he believed was erroneous and created totalitarian board members that were not legitimately sitting on the Board is not just cause for termination. It's just cause to demonstrate that Mr. Adkinson is a successful citizen. And especially practice I respect the man of the education he taught him how to implement his creed because of what apparently said or what somebody did when it was privileged behavior as the

control of their teacher because I just simply can't believe that the Board of Education has done that to her. Alderman based her what she said. And I wrote a letter to Dr. Low April 17th giving her advice over the what they are doing or violating his Constitutional right, but they never enabled themselves to the opportunity to contact Mr. Alderman. And now, he would like an apology, but he wants to do what he has been doing for 20 years. He wants to be a teacher. And because of what he said in that meeting that Board is denying him that opportunity and that's why we're here today.

DR. SPATAFORA: Okay. All right Mr. Hickey, who is your first witness?

MR. BADLEY: Dr. Low.

DR. SPATAFORA: Okay (readable).

MR. BADLEY: (readable) is a different case.

DR. SPATAFORA: No. He's the one where he is.

(Witness Sworn)

WITNESS:

DR. J. FREDERIC LAW

Having been first duly sworn to tell the truth, testified as follows:

DIRECT EXAMINATION

BY MR. BADLEY:

- Q. Dr. Low, your position at the school system?
- A. I am representative of schools.
- Q. And when did you first begin serving in that capacity?
- A. About two and a half, almost three years now.
- Q. During your tenure as representative, could you advise, you alone

MINNEMAR TRANSCRIPTION SERVICE
(800) 576-1884

specifically one of the issues that has been raised in the course of these proceedings, Mr. Alderman has been asked at the cost of a grant for a golf trip, right?

A. Yes

Q. When was the first time that Mr. Alderman asked that cost?

A. I believe it was the Board meeting in October

Q. And during that Board meeting, did Mr. Alderman refer to you as a
colleague, or did he not

MR. HUBER: Objection, leading. He can say what Mr. Alderman referred to
but no whether action was taken by whom. Your Honor.

MR. BAILEY: Objecting.

JUDGE SHATAFORD: Go ahead leading.

Q. Could you describe how Mr. Alderman expressed his concern over the
cost money expenditure during that meeting?

A. To the best of my memory, Mr. Alderman appeared under our law
(section 10) and asked the Board, or indicated to the Board that he thought there might be
a problem with a nearly three hundred dollar grant and presented some documents to the
Board indicating that this was the evidence that he had that something incorrect had
taken place. Essentially the Board asked him and seek the information and directed me and (unintelligible) conduct an investigation and the treasurer to look into the matter.

Q. During Mr. Alderman's presentation to the Board, did he engage in any
behavior that you would characterize as unkind or abusive?

MR. HUBER: Objection, leading. How did he behave, what was his demeanor.
But this is just Mr. Bailey testifying.

MR. HARRIS: Could you explain?

Q: How was Mr. Alderman's behavior?

A: He was very belligerent like, very judgmental and brought the information and expressed what the problem was, what his concerns were and asked the Board for their ideas.

Q: Did you consider the information submitted that Mr. Alderman had some possibly source of money?

A: Yes.

Q: Was Mr. Alderman disciplined, reprimanded or warned that he could not criticize you in the way you were handling the District's business?

A: No.

Q: Was there any communication to Mr. Alderman that he/or was stepping outside from or didn't have any business in doing what was beyond his authority or organization outside of the Board?

MR. HARRIS: Judge, this is still leading.

MR. DAILEY: I think the opening statement that this was all in preparation to undermine Mr. Alderman so I raised the concern. He raised the concern back to Plaintiff as a business like that's all we're just putting on evidence that they, he wasn't disciplined for that.

JUDGE SPARAGANO: I am not agreeing to the contrary. I'm objecting to the method of questioning the witness.

MR. HARRIS: Okay. We don't follow the rules of evidence here, but try to avoid leading or much of your own.

MICHAEL J. TIGHE, TIGHE TIGHE LAW FIRM
(215) 529-5467

Q. Well, I didn't think I was breaking. I asked him if he expected me to make a personal statement?

A. No. He brought up a concern. He expressed it in a very professional manner to the Board. He provided documents that further were evidence of his concern and was very respectful. Mr. Abeynuma has the right to bring up concerns and objections to the manager.

Q. Mr. Law, could you explain a little bit about regulation the Board members engage in subtleties in making effective?

A. I'm not quite certain of your question.

Q. Is there like the legislative outlined steps that county Boards of Education should engage in to make effective in its public relations?

A. I believe so. There are certain guidelines that Boards of Education must remain effective and must have good working relationship with the public and with their employees. And to maintain a standard that they are viewed as being above question that they are doing the right things for the students. With mostly those words, I'm not

Q. Are there certain authorities granted by the legislature that you are aware of that Boards of Education are required to undertake in communication with the public?

A. They are. They are required to communicate with the public not only in an open-meeting or their board meetings, but also to be proactive and to get information to the public and, in turn, to seek information from the public to communicate and through the communication, discover in a broad meeting.

Q. How would you characterize Mr. Abeynuma's behavior during his teacher meeting?

A. Permitted under every rule allowing that the issue was anything like the firing my friend in a meeting involving an employee. Because of that time, the level of disruption, the things that people were called upon to do open meeting. It was very serious and I think he was actually attempting to do that.

MR. HILLIS: Objection. That is speculation regarding what or what would Alderman was thinking. He has no basis to justify that claim.

PUBLIC STATEMENT: I'll take that one consideration. You can think your answer.

A. Essentially he was right. He was challenging. He encouraged especially Mr. Kosciusko (and the elected members) of time that he had to present a case as to why he should not be reinstated, including members of the Board, myself, our treasurer and Mr. Melby. And essentially put on me as to why he shouldn't be reinstated.

Q. Do you know that you've had with Mr. Alderman since the recall for me and you. Have you had any meetings with Mr. Alderman since his tenure Resuming?

A. There was a followup meeting in my office with Mr. Foy, also from my Alderman and another representative and Ms. Roger Trotter who is our Director of Federal Programs at which time I gave Mr. Alderman's letter indicating that I am going to recommend his reinstatement.

Q. Did Mr. Alderman express an opinion and say or anything about whether he expected the letter you're referring to his tenure Resuming to be appropriate or inappropriate?

a. No, no there's not so far I probably even know anyone and even that during this meeting. At that point as I was reading the letter to the Board going through it point by point, he --

MR. HUNTER: Judge, I don't know what the purpose of the testimony at [REDACTED] Board is trying to pollute the record with subsequent behavior, the basis of the testimony is utilized as to the Board I would like the evidence limited for whatever purpose. But if they are trying to justify the termination it may only be based on the letter that they wrote to him which is only alleged conduct and speech that occurred at the teacher hearing. So I don't know why they're bringing in subsequent stuff, but I just wanted to make that note in the record.

JUDGE SPATZAPOLI: What's the purpose, Mr. Buckley?

MR. BUCKLEY: It's my understanding that the plaintiff takes the view and of course that was articulated during the attorney's opening statement that his bug contact with the Board and/or of course mitigation (inaudible), in terms of the decision that was made to terminate his employment. And the evidence that I'm attempting to present shows that Mr. Adkins has not acknowledged that what he did was wrong, holds the view, continues to hold the view that he or permitted to engage in behavior that I think any reasonable person would consider unprofessional or conduct that Mr. Adkins exhibited during the morning in advance of the Board considering the representative's representation, the termination (inaudible) itself as well as the appeal that was filed of the decision for the Board to terminate his employment will illustrate that here, that Mr. Adkins has no appreciation or will not acknowledge that this kind of behavior isn't

actions without having negative effects on the Board. So I think we ought to be able to show that it corresponds to the litigation argument.

JUDGE STADAFORD: Let me ask Dr. Low: When you had the meeting with me before the investigation hearing, was there any consideration of possibly changing your mind about the recommendation? Was that the purpose of the meeting or were you just pretty much stuck up?

A. My mind was pretty much made up either point and we were there to present this with the other side and give him an opportunity to respond, but the letter was written.

JUDGE STADAFORD: Well, I'll let him finish the answer he was giving, but I don't think we need to go further than this. We should keep a focus on the conduct he was concerned for. And so no acknowledgment that he does not feel he did any certain thing wrong. He has said that very clear.

MR. SUMMER: And Judge, I would like to point out too. It's not Mr. Alberman's responsibility under the guidance professionals and the Board policy rules and regulations to apologize. Because they think that there is some way that they could reach an agreement where Mr. Alberman can continue to teach if he acknowledged something, that's something. But I haven't heard any evidence yet that they made that offer to him prior to actually terminating.

JUDGE STADAFORD: I understand. I understand the point you're trying to make and I will take that into consideration as part of your argument. That he is not responsible for what he did. Why doesn't you go ahead and finish the answer you were going about the meeting.

(Q) Eventually to conclude, do you have some thoughts we were discussing the same where I indicated in his letter of resignation that he had no place in the teaching field by now going to request the reclassification, he said you are a endocrinologist, that you are practicing and there was no backing off of the language.

(Q) Did you recall any other instances by Mr. Aldekaray of a departing note from that reading?

(A) I think at one point he actually said I was the best person he'd ever seen.

(Q) Dr. Low, taking you toward Mr. Aldekaray's behavior during the Board meeting and your opinion of the prospective adverse consequences based on your dealings with Mr. Aldekaray, do you have an opinion as to whether or not continued violent behavior of the sort he exhibited would have an impact on your ability to be board members in effect?

(A) That type of would have a detrimental effect.

MR. HUNTER: Objection. That's a speculation. I haven't been to my evidence of how it would have a detrimental effect. It might be his opinion, but they wouldn't have any evidence that it's going to be detrimental to the Board's functioning.

PLAINTIFF ATTORNEY: That's something that I can consider when I make my argument. Thank you Judge.

(Q) And could you explain why you believe that it would be detrimental?

(A) Well, as I indicated earlier, it's the responsibility of the Board to maintain good relations with the community. And we have a very small operating budget and a great portion of our budget comes through grants, comes through donations within the schools, through various activities of parents and other community members, to help

support the schools". If the Board is named as "Young Maricopa and Associates" and that is reported and expected often enough I certainly believe that that would have a very detrimental effect upon our ability to present and say, would you please give us some money or would you please provide us with some help. And so I think it would have a very detrimental effect upon our ability to continue to function and provide the best education for the students in the county.

Q. Does the Board have a party bill describing the duties and responsibilities of the Board and what they are based on the terms of (available).

A. There are many, many responsibilities that the Board has that they have to give the license to approve all expenditures, they need to approve (available) personnel. They are constantly asked to make decisions by the public concerning progress and opportunities and problems that people view. They are constantly bombarded with questions and answers and issues from the public about what's going on in the school system. Children are the number one focus of the community and people are interested in what's going on. So they have a very, very busy schedule and it's difficult to keep all of those things moving in a positive direction.

Q. Dr. Law, given the speech that you described to county Board of Education, is there any likelihood that the behavior of (available) behavior on the part of the employee would prevent a detection from that?

A. Oh, absolutely. I—

MR. BUTLER, I move my objection, Judge.

JUDGE SPUDZIAWSKI: Please, do stand.

A. In my capacity as the Board's representative, if for example, I am allowed to converse with one employee, what would be the consequence with other employees who wish to go to their principal or to their supervisor and tell them a concern or something more serious than that. If the kind of behavior was to continue, I would think it would probably spawn additional behavior that would take up the time of the Board, the time of the superintendent, the Board office and probably as well, I mean it would happen with the students as they become aware that it's all right to tell your boss, in this case a teacher, a principal, I think we'd have quite a few students spending a lot of time at home.

MR. BAILEY: I think that's all I have.

JUDGE SPATZAKOWSKI: Okay, Mr. Alldamer you can cross-examine.

MR. HUBBELL: Thank you Judge.

CROSS-EXAMINATION

BY MR. HUBBELL:

Q. How long have you been a vice superintendent, or superintendent, of the Lancaster County School Board, sir?

A. I think I joined a little bit ago, about three years.

Q. And, then in October 7th Judge, You said that you've never met anything Mr. Allderman's complaint before?

A. That's correct.

Q. Were you on the Board or unassociated with the Board in 2002 when he was invited out of the Board meeting in handcuffs?

A. I was not part of the Lancaster County School system, then.

- Q. Were you aware that that occurred?
- A. I have become aware of that, yes.
- Q. And when did you become aware of that?
- A. I believe probably during the first year of my tenure.
- Q. And you were aware that the Board apologized to Mr. Alderman for that conduct?
- A. Yes, I was.
- Q. You are aware that the Board paid a substantial amount in attorney's fees and compensatory damages to Mr. Alderman?
- A. I believe that is correct.
- Q. You were aware that the Board had formally apologized at a public meeting to Mr. Alderman and not that in the resolution?
- A. I believe that is correct.
- Q. Have you reviewed any of those documents?
- A. There are three documents, yes.
- Q. Did you review any of those documents before you terminated the 20 year employee of the school board for acting sexually misconduct?
- A. I believe I reviewed them much earlier, pre-tenure.
- Q. Okay, did that factor at all in your decision when you terminated the 20 year employee?
- A. The number one thing that caused me --
- Q. Did that become factor one or all?
- MR. RAILLY: Can the witness be permitted to answer the question.

KIMBERLY TRANSCRIPTION SERVICE
1-800-544-5454

JUDGE STATEMENT: Let him answer the question
and then ask him if it's a yes or no question. 'Yes or no?'
JUDGE STATEMENT: He does not have to answer yes or no, just let him answer
the question.

A. (hesitantly) Well, I made the decision to terminate Mr. Alderman. I
considered many things. I considered the negative experience that I've had in the
past as well as the nature of his language during that meeting and considered many
things.

- Q. Did you review his personnel file?
- A. I was aware of what was in his personnel file.
- Q. Did you review his personnel file?
- A. Not at that time.
- Q. Okay, so prior to making the decision to terminate Mr. Alderman you had
not reviewed his personnel file?
- A. I was aware that he had had favorable evaluations throughout his career.
- Q. And you were aware, will bring back up to my question. You didn't
physically review his personnel file before you made the decision to terminate Mr.
Alderman?
- A. I had done that prior to that assessment.
- Q. Right, but after the board hearing, but prior to the decision do you
think I would look at his personnel file did you?
- A. No I didn't.
- Q. Did you talk to anybody about his personnel file?

EXCERPTED: THE WILHELM REPORT, ATTACHED
(840) 579-1445

A. Yes.

Q. So you're the superintendent of the school Board, you're making a decision to terminate a 20-year employee and prior to doing that you didn't even read his personnel file?

A. I was of the opinion that he deserved the bad performance evaluation in it and didn't even notice that that would have indicated anything to the negative.

Q. So you were aware that the review process was Teacher of the Year?

A. I believe that yes, had been mentioned to me much earlier.

Q. So at the time you made the termination you knew that he was Teacher of the Year?

A. That looked from email earlier named Teacher of the Year.

Q. And you know, although you didn't review the personnel file, you knew that the performance evaluation was positive?

A. Yes.

Q. And you know that such a file ever in the history of Mr. Alldredge's teaching career has there been any allegation, sexual allegation that he engaged in any kind of inappropriate conduct in the classroom?

A. There was nothing in his personnel file to my knowledge.

Q. So there was no indication the suspect to his actions down as an employee of the school board that he was did anything wrong?

A. I don't believe there was any record of this.

Q. There is no indication that he was threatened a student, correct?

A. That's correct.

Q. There is no evidence he had any kind of, shall we say, physically associated students, correct?

A. That's correct.

Q. There's no indication that he called a student a jerk, right?

A. No.

Q. There is no evidence that as an employee he has different as teacher or whatever position he's held through the 30 years, because he's held different positions hasn't he?

A. Not like that.

Q. What different positions has he held?

A. He has been a teacher. He has worked in the Board office as an various capacities involving technology that has changed yearly.

Q. He has been instrumental in assisting the Board with the technology improvements hasn't he?

A. Mr. Alphonso has many skills and he has many abilities that have been very helpful at times to the Board.

Q. And there's no indication in that personnel file that he ever called another employee any kind of inappropriate name while he was at work?

A. Not at all.

Q. So the named relatives of your deceased wife however the 30 year employee is reflected on your letter comes from your spouse about his behavior in the trustee meeting and the statements that you identified on your April 10, 2009 letter, correct?

- A. Your Honor.
- Q. And it's based on, can you really justify the decision to terminate this employee because that speech under the Progressive Discipline Policy, Dr. Law?
- A. Yes sir.
- Q. Let's go back here. You said that the reason may be because there might be some kind of adverse impact on the Board because children might not value teachers' contributions. Since Mr. Allderman's teaching and career has been very well publicized what the Board has done to this 30 year employee, has there been a single incident of a student as a result of Mr. Allderman's speech calling a teacher a cocksucker?
- A. No, but there have been instances between students where they were using, calling names to one another and using the electronic medium to do that.
- Q. So the students were using the electronic newsletter to communicate?
- A. Yes.
- Q. Well each other?
- A. Yes.
- Q. So now part of your obligation is that he is causing a negative atmosphere where people are active and send messages to each other?
- MR. BAILEY: Objected.
- A. No.
- MR. SPERBER: Okay, thank you.
- MR. BAILEY: What's the objection?
- MR. BAILEY: Well, the question has physical as well as pure objecting to that or that. I think the representative was submitting a question about whether or not there had

have any negative orality consequences involved. What he did is not it was part of his free
the disciplinary action.

MR. WILHELM: I'd withdraw the question.

MR. COOK, TETON COUNTY: He withdraws the question.

Q: Now with the information at that point, the speech, it could be
considered detrimental to the interests of the Board, correct?

A: Yes.

Q: That was your testimony. Prior to interviewing Mr. Adkins, you didn't
in down and how the interview went has did you, and say would you stop the
speech?

A: No I did not.

Q: Okay. So you never gave him an opportunity to say, I understand of you
understand that what he did is lawful basis for termination, the school board acting
through you never gives him, a Teton employee of the school Board, former teacher
of the personnel past, an opportunity to reasonably cause and direct that conduct?

A: There was certainly display of a lot of evidence that he was not going to
do so.

Q: My question is, did you provide him, did you advise him, Mr. Adkins, would you please resign because of all those reasons you identified?
Did you do that?

A: I did not.

Q: Did anybody do that?

A: Not to my knowledge.

Q: Let's get back there. You mentioned at the things about the administration's impact on the school board is that the limited nature of budget that they have or something like that. I was really not clear about what impact Mr. Alderson's behavior was going to have, but fiscal responsibility is a critical system that has a limited budget in mind, right?

A: That is correct.

Q: So even the loss of a thousand dollars or fifteen dollars can have a very substantial impact.

A: That is correct.

Q: And when Mr. Alderson complained to you about the golf team expenditures, which at that meeting you described him as very professional and business-like, because he was, wasn't he?

A: Yes.

Q: And when he complained to you about this, how much money was he complaining to you about being lost or possibly unaccounted?

A: He was talking about twenty-five hundred dollars.

Q: Twenty-five hundred dollars is a significant amount of money, isn't it?

A: Yes sir.

Q: And that was a legitimate concern of his right?

A: That was his concern.

Q: And that financial, the fiscal responsibility is critical for a school board to manage, correct?

A: Yes.

Q. What other things do you work for complain?

A. We received the documents that he provided, we received who we had

Q. We then contacted Mr. Joe Powers who follows--

Q. The State Superintendent's office.

A. The State Superintendent's office over phone. We asked if she had done any investigation or any review. We did this through an email and we had done it before. I won't say this because it is my opinion that my speaker is here on the phone about this but we did communicate with her before and. We had no answer from anyone from her.

Q. Okay, you say so you know, the state is still investigating that
complaint?

A. As far as I know, it's still with Mr. Powers.

Q. Did you or anybody on the Board make a determination that there was something improper about, or questionable about the expenditure of the money for the golf team?

A. When we looked at all we looked through the documents, we saw one document that had a six, which was presented to us that was presented as evidence that there had been twenty-five thousand dollars over, or exceeded twenty-five thousand dollars was actually for another grant. It didn't have anything to do with the golf team. It was for a grant that had been provided to the school.

MR. HALLIDAY: So the amount is nine, you said twenty-five thousand dollars?

A. Twenty-five hundred dollars. A twenty-five hundred dollar warrant was presented to the Board and that had nothing to do with the golf team. It had to do with a

Starting this year... So there was some indication that we were being precluded from I guess... So we looking at the documents, looking at what we had done, knowing the procedure that are supposed to take place and the answer which the money was disbursed to our office, we felt that we were probably doing the right thing. We having our response [from Mr. Tolotta = editor], he appeared not to be very concerned.

Q. But you would agree that the comments that Mr. Alderson submitted to the Board on the thermal爽爽 that he filed was a legitimate sort of public criticism or complaint?

A. He certainly has a right to make those.

Q. Do you know whether or not the state is investigating this golf expenditure?

A. I have no idea if the state is investigating this.

Q. And wouldn't federal responsibility or responsibility have the Board's expenditure of this Board to cover?

A. Absolutely.

Q. And wouldn't that hurt the effectiveness of the Board?

A. It certainly would and it would also hurt the effectiveness of the Board if it was apparently said that it was untrue.

Q. And how many times did Mr. Alderson say it?

A. There was a several occasions where he came to the Board and presented this same information consistently.

Q. All right.

A. And then at the January hearing,

Q. On several occasions he said to the Board something that you admit is a statement of legislative actions or decisions, part of a school board employee or member of the community?

A. Yes. That's correct.

Q. All right, and apparently the Board even thought it was a matter of legislative actions because they referred it to the State Superintendent's office correct? You believe that was a matter of public concern because you referred them documents?

A. [Inaudible]

Q. So you don't have any problem with Mr. Altman talking about that as much as he wants?

A. Again, he has the right to enlighten or to express concerns.

Q. You of course are familiar with school board policies, correct?

A. You are.

Q. And you are familiar with the nature of progressive disclosure in the school board system, correct? Now I want to ask you about some things. I don't care why you did it because I don't think it violates anybody's privacy. But over the last three, what did you do there, and a half years that you were State Superintendent?

A. About three years.

Q. About three years. How many records have you disseminated to the public for?

A. I don't know that there have been any records released for circulation.

Q. Will just give me and the court and the Judge written list of all the things that people have been suspended for. Do you have any particular ones like just their rates of suspensions that let's say, you've suspended?

A. Yes.

Q. Okay. How many, will let's break it down into categories. Let's do suspension without pay. Every action disciplinary action. And I don't care the how long, one day or 30 days. How many people have you suspended without pay in the last three years?

A. I do have to my mind probably two, three counting Mr. Albrecht.

Q. What were the other two suspended for?

A. Um, one instance there was an instance where an employee had brought a device into a classroom to teach about and informed a great deal of students the building and caused the students to have to evacuate the building through a fire drill.

Q. Okay. What was the device they brought in?

A. It was just a thermometer reading device that the students had made in the shop.

Q. Okay, and what was the other person suspended for?

A. The other situation involved an individual who was suspended as a result of inappropriate behavior with a student, sexual behavior with a student.

Q. And it was inappropriate sexual behavior?

A. Yes.

Q. With a teacher?

A. With a teacher with a student.

- Q. Other, and more than a teacher, former teacher?
- A. This was a teacher.
- Q. And the nature of this inappropriate sexual behavior?
- A. Well sexual.
- Q. How old was the female?
- A. Eleventh grade, eleventh.
- Q. And how old was the male?
- A. I'm going to say probably 21.
- Q. And did you file an investigation into this inappropriate sexual conduct?
- A. Yes.
- Q. And what was your determination?
- A. That it occurred.
- Q. And what was the punishment the teacher received?
- A. He was suspended pending a hearing before the Board for Inspection.
- Q. And what happened?
- A. The individual performed his duties and returned to the Board.
- Q. Any other disciplinary actions that you've brought that you can recall in the past three years?
- A. The suspension of an employee, yes.
- Q. How about any other kind of disciplinary action?
- A. There have been occasions where employees have been brought in and had a lecture or a discussion as to the nature of their behavior.

(Q) Well, in terms of the interactions in the course of those instances, you gave me more examples of what kind of conduct you brought people in and had a difference with, I assume?

- (A) Inappropriate conduct in front of students.
- (Q) If the "what"?
- (A) You being overly affectionate towards each other.
- (Q) What do you mean, between teacher and student?
- (A) Between teachers, between adults.
- (Q) What other kind of conduct?
- (A) A similar type of a situation involving employees who were at a conference and that was not behaving in a manner that was really not deemed to be appropriate and we had received word.
- (Q) What was the nature of the behavior?
- (A) In a meeting hand holding, sitting in each other's laps, kissing.
- (Q) What other kind of behavior has caused you to bring disciplinary action where you bring somebody in to talk to them about it?
- (A) We had a situation involving a teacher that did a lap in a classroom.
- (Q) What year?
- (A) And that was a suspension without pay. That's all I can recall of this one.
- (Q) So in each of these instances that you identified where I'm not talking about the new suspension, but in each of the instances you identified about inappropriate conduct in front of students or being overly affectionate, you brought those people in and had a talk with them.

- A. Yes.
- Q. Told them that what they were doing was wrong.
- A. Yes.
- Q. And told them that it had to stop.
- A. Yes.
- Q. And some of the students that you identified actually worked at the school.
- A. When you talk about the calling down, per-
- Q. And also about the inappropriate conduct or threat of violence between teachers happened in the school. And the teacher hitting student happened in school, correct? All the behavior that you complained of with Mr. Johnson happened in the course of a school board meeting, correct?
- A. This is was a public meeting.
- Q. Outside of the school board and outside of the time as a teacher?
- A. Yes.
- Q. So you honestly do not believe that the what happened or how the behavior at that meeting has any impact on the teaching ability at school?
- A. Oh, I wouldn't do.
- Q. Do you think that how he behaved at that meeting somehow prove that he is not going to be able to perform his duties at school?
- A. If he's not doing a good job then he's not doing a good job.

are they going to be? Are they going to be bullying these students? Are they going to be hostile and aggressive?

- Q After Mr. Alderman's transfer hearing none of that occurred at the school.
- A Mr. Alderman was not working with students in a classroom.
- Q You have potentially observed Mr. Alderman interacting with students, correct?
- A Yes, on one occasion, and the board office.
- Q And he was always appropriate with the students?
- A Yes, I've already indicated that.
- Q And always professional?
- A Yes.
- Q And although you didn't review his personnel file and you say you didn't know how to access to the documents, do you feel as the classroom teacher, correct?

- A Yes.
- Q And like you said, there's nothing in the personnel file that is outside of 'My job as a teacher'?
- A That's correct.
- Q In respect to the documents that you identified in your letter to the board for the transmission, specifically in respect to Mr. Alderman's comments concerning arbitrary:
- A Would you say that again?

Q. Specifically Mr. Allderson is from the State of Oregon, David Minster. I think it is another. Okay that was one of the names that you identified in your April 10, 2008 letter, correct?

A. Yes.

Q. And you understood that the reason that he raised that issue was because he was concerned that Mr. Grasser was not actually living where he said he was living.

A. My understanding was that his concern was that he was an alienator.

Q. Okay you don't recall that concern had anything to do with residency?

A. I don't remember at that time whether or not he brought up that residency issue.

Q. Do you understand now today that that was the purpose for . . .

A. That's what I've been told.

Q. All right. And have you reviewed the transcript of the trustee hearing, or expect me the termination hearing?

A. I have.

Q. And in that transcript does Mr. Allderson not mention the fact that his concern was that the Board member was not actually living where they said they were living?

A. I do. I just don't recall that.

Q. And, in anyone ever investigated whether or not the claimed residency of Mr. Grasser is actually where he lived?

A. That's not something that I would be involved in. I was aware of it.

Q. Well if you've got someone other than a non-legitimately qualified member on the Board wouldn't that be a concern of yours as the President of the Board?

A. Agreed, that's just something that's within my jurisdiction. I work for the Board, not they do me.

Q. Well you're the superintendent of the Board, agreed?

A. Yes.

Q. Wouldn't it be a concern of yours if one of the Board members was not legitimately acting on the Board?

A. It would be a concern.

Q. And wouldn't that not also properly, well if it's not a legitimate Board member, wouldn't that not also properly every action that the Board took?

A. No, I don't think that issues in that manner... it would be a concern that that person has, perhaps, would be a concern.

Q. And if that person was not legitimately acting on the Board and was voting and participating in Board activity, that could call into question the integrity of the actions that the Board took?

A. Agreed, I don't know my evidence contrary to the fact that Mr. Gaskins is an addressed, or a living in the community...

Q. Well my question to you is, if there is a board member that's not legitimately qualified to sit, wouldn't that then cast into doubt the integrity of the actions that the Board took because that person were not legally entitled to sit?

A. I would answer, yes.

Q. Yes. And you were aware that Mr. Allderman's residence was that he was not living where he said he was living therefore he didn't fulfill the residency requirement and was not then entitled to sit on the Board?

A. That's on the transcript.

Q. And you're aware of that?

A. I'm aware of that, yes, now.

Q. Well, what did you know about when that was the occasion?

A. Well, as I said I don't remember, I didn't remember that that was then in the transcript until you pointed it out to me that it is.

Q. But you were asked if the purpose of Mr. Allderman's comments was to question whether or not that was his residency?

A. That's what it says.

Q. Okay so you don't know any evidence about that?

A. That's what it says.

Q. And you agree that this could be a concern?

A. Yes.

Q. And you know i don't anything to back up that?

A. No.

Q. Do you also agree that in West Virginia employees are encouraged to demonstrate a responsible citizenship by maintaining a high standard of conduct, self control and "workplace behavior norms?"

A. Yes.

Q. And you're aware that immorality in West Virginia or in schools in West Virginia conform with accepted principles of right and wrong behavior contrary to the general code of the community, conduct, especially not in conformity with the acceptable standards of proper school behavior. Have you ever heard that definition of immorality?

A. I very have read that at some point and time.

Q. And under that definition would it arbitrary then to suspend?

A. I think that it's very broad statement and obviously left down the school administration's discretion. I am not certain. In some communities where that would be suspended other consequences might occur.

Q. Well certainly it would be a legitimate concern that consistently a suspending, suspending, that is immoral behavior, correct?

A. I think that would be an inference.

Q. And so, what Mr. Alderson did as you just alleged in respect to questioning others as regard to the equality or in regard to school behavior was a legitimate concern.

A. It was a legitimate concern, however it was never brought up in my knowledge prior to that meeting.

Q. It was never brought up prior to the master hearing?

A. I believe that is correct. I don't believe that, you know, he ever brought that to the Board as a concern prior to the master hearing.

Q. Do either the foregoing hearing, the before the reorganization, because you admitted that that was a legitimate concern, did you ever investigate whether or not for what an individual?

A. No I did not.

Q. And you have ever investigated the individual upon which as you already testified?

A. No.

Q. Are you planning on doing that?

A. My current or our long time member of the Board.

Q. Why?

A. We don't get enough votes.

Q. Mr. Low, let me just make sure that the record is absolutely clear about the basis of the reorganization. Everything that you need to defend the reorganization as on the April 16, 2006 Order, correct?

A. That's correct.

Q. And you entirely recognize that Mr. Adelphia has a First Amendment right as a citizen public officer?

A. Most definitely.

Q. And the Board as a public body and members of public officials.

A. That's true, but Mr. Adelphia has no services rendered none and brought criticism and severe and damage to the Board.

Q. On multiple occasions he hasn't?

A. On several occasions.

Q And you can see now that he, especially beneath a little notice on his own and find a letter that successfully removed at least one school board member in the past?

A Yes.

MR. HUNTER: Judge, can I have a couple of moments to talk to Hansen?

JUDGE SPATZ: Of course. We're off the record.

MIC. HUNTER: Thank you.

(THE STATE, MR. HUNTER, AND HANSEN ARE OUT OF THE RECORD.)

JUDGE SPATZ: Okay, we're back on the record.

Q There were three questions for you. They should be fairly brief, for sure. I want to make sure that the record is absolutely clear about several things. All right. Number one, and I think you've already answered this. All of the conduct that you complain of occurred in the context of a hearing where the school board was transferring Mr. Hansen?

A I think so; the letter is also indicative that he prior to the meeting informed that he was going to expose the committee and that he encouraged people to come out and witness that.

Q So in advance he announced that this was going to be a public hearing, he has invited and characterized the Board as a fighter that you don't consider just. Sound like it?

A That's going to vary markedly.

Q But he didn't say anything to the characterization of the Board.

A I don't believe he did.

Q. Do you know if anyone on the Board or anyone on the committee was threatening?

A. With physical assault?

Q. Yes.

A. No.

Q. And he engaged in no verbal conduct prior to the time for hearing concerning the statements that he made or has anyone attempted to do so earlier?

A. I'm not certain that could be characterized as verbal conduct.

Q. What would you characterize as verbal?

A. I think there's a possibility there of subtle or covert being involved.

Q. So you're saying there is such thing as subtle conduct statements that are verbal?

A. That's my understanding.

Q. Okay, so people can be put in jail for what they say?

A. They can be held for it. Not in jail, no.

Q. So then the answer is, there was no criminal behavior on the part of Mr. Alderman?

A. No.

Q. All right. And there's no expectation by members of the Board, or the trustee hearing, that trustee you know who is asserting that Mr. Alderman didn't want to do

A. Say that again.

Q. Mr. Alderman didn't want to be considered illegal.

A. He stated he is hearing.

Q Right, obviously he didn't want to do. And Mr. Allderman was upset about the incident?

A I would assume.

Q And during that meeting, you never called Mr. Allderman out of order, did you?

A It's not my place.

Q Well, did anybody on the Board call Mr. Allderman out of order?

A Mr. Wooten several times asked him to step up point, no —

Q But did he call him out of order?

MR. HANNAH: Can he be permitted to finish his sentence?

MR. SPAEDER: Let him finish his sentence.

Q Did anybody call him out of order?

A He did not. Mr. Wooten several times was attempted to keep him on track as to why he was there. He did not call him out of order.

Q Nobody ever ruled Mr. Allderman out of order?

A No.

Q Nobody ever tried to rule Mr. Allderman from the hearing based on his conduct?

A No.

Q And roughly for the same time during the hearing he was seated in that off your or somebody else's desk?

A Unusually.

(d) You are, of course, aware of the school board policies concerning the responsibility of the Board to assist personnel in conducting and performing their job duties, correct?

A. Yes.

(e) In fact, the Board policy is that it shall be the policy of the Board to strive to assist personnel as much as possible to adjust to their position and to perform their duty satisfactorily?

A. Yes.

(f) Tell me specifically now we so clearly agreed that the administration had nothing to do with how Norman performed his duties as a teacher, correct?

A. No.

(g) Because according to the personnel file and according to the 20 years of previous evaluations, he more than satisfactorily performed his job duties, correct?

A. He had satisfactory evaluations.

(h) And as there's no question as regard to his publications that he performed them satisfactorily?

A. Yes.

(i) Now as regards to the behavior or conduct or speech that you complained of, tell me everything that you did to attempt to assist Dr. Alderman in curbing this inappropriate behavior?

A. (Inaudible)

(j) I have no further questions.

RECORDING TRANSCRIPTION SERVICE
(304) 255-1485

LAW OFFICES OF TROTTER, HARRIS & TROTTER

REBUTTAL

BY MR. DALEY:

Q. Dr. Lee, Mr. Trotter asked you about a settlement agreement that was entered into sometime ago between Mr. Allderman and the Board. To be clear about this, you haven't had the Frederick County Board of Education in that time, so can?

A. I was not part of the Board of Education. I was an employee of the county and in which the settlement was made in meeting.

Q. Was this something that a Court ordered the Board of Education to do?

A. I believe so.

Q. Did you understand that this was a settlement of a lawsuit or something like --

A. I believe it was the settlement of a lawsuit that the two language that had been presented by the insurance carrier to settle this lawsuit.

Q. So you did not have a chance to personally observe Mr. Allderman's behavior at the meeting in question when that lawsuit?

A. No I was not there when he was taken from the meeting.

Q. Did you have any role in investigating the witness of the lawsuit?

A. No I did not.

Q. Do you know what factors were involved in the decision by the Board of Risk and Insurance Management to settle the lawsuit?

A. No.

REBUTTAL TRANSCRIPTION ATTACHED
OHO 03-HM-01

Q: Now in the above, Mr. Miller asked you about the issue of not being a part of Mr. Craven. I recall that, do you recall at any time during the transfer hearing, when Mr. Allderman articulated his objection to Mr. Craven sitting on the Board as a board member?

A: I don't remember that.

Q: Now the record will speak for itself that I think it can point the prosecutor and Mr. Craven over there has no authority to sit on this table, or this table because he is a candidate. Do you recall that?

A: I believe that (hesitates)

Q: Are you aware of any statutory requirement that calls for the removal of a board member because they are an applicant?

A: No, I'm not aware of any

Q: Do you understand that candidate may sit on table?

A: Yes

Q: Do you take issue with Mr. Allderman's contention to move the qualifications of a board member based on residence?

A: No.

Q: Do you recall the statement during the transfer hearing and how querying him:

MR. MILLER: What page are you speaking?

MR. HALLIFAY: Page 13

Q: "Now you talking to Mr. Weller you don't care. You let a non-qualified person sit on, with a student and you don't know your own agenda and let me tell you who did that."

something like White did. He just pulled another number. Like you think about that. People are real stupid like. I'm real stupid like and I went like out off the table and I don't even like voting.' Do you recall Mr. Adkisson following that up or trying that in with a written statement?

A. No, I do not.

Q. You stated earlier you if you attempted to attempt to, well let me ask you this. Mr. Vause, I think you testified on direct examination, attempted a couple of questions and again the Plaintiff's lawyer will hear this and know that from the benefit of both the copy of it and video version of the Plaintiff's hearing. But did Mr. Adkisson react in a positive way to Mr. Vause's attempts to reduce him?

A. Uh, each time this happened although Mr. Adkisson interrupted the panelist and questioning repeatedly, whenever Mr. Vause would make a statement to the fact that you're not talking about the subject you are supposed to be talking about, it would, the intonation of the (unintelligible) he was very aggressive, more explicit.

Q. Do you have an opinion of whether or not explaining, an attempt to related to calling out of order, would that have had any material difference to the outcome?

MR. PUSKAR: Objection, questioner.

JUDGE SCHAFFNER: The objection is noted. Go ahead and answer.

A. Uh, I agreed and agreed?

MR. PUSKAR: Yes.

A. Other - On my opinion my might have reacted up with another situation where the judge was taking Mr. Albrecht out of the meeting. He was, so I understand was re-directed by just because come up.

Q. Now Mr. Ulster asked whether or not you attempted to contact Mr. Albrecht that it was wrong to be unkind to the Board members, to the Superintendent, to the Treasurer and that he should step that position. Could you explain to the hearing members why you decided to proceed with remuneration and need an average of "the pot?"

A. Essentially two reasons. One, the nature of the behavior of Mr. Albrecht was such that I did not feel that an employee who behaved in such manner towards his employer was someone who would be able to conduct himself in a manner that would be appropriate in the future. Secondly, I didn't believe based on the conduct of the chairman presiding that was equal for all following the Board when he essentially was closing and breaking about what occurred at the board meeting, how he —

MR. ULSTER: Objective, that's (inaudible) what did he say, placing and breaking. Objective, that's is the characterization of Mr. Albrecht's behavior and there is no evidence to support any of that type of characterization.

PLATEAU SPATAFORO: Is that one of the rulings?

MR. ULSTER: No

PLATEAU SPATAFORO: We'll proceed to part A now.

(THE HEARING A brief discussion was had off the record.)

PLATEAU SPATAFORO: Okay, we're back on the record.

Q. Mr. Duley asked you in, in fact covering, exclusive master one, that you would like to touch your dissatisfaction that there was little likelihood that Mr. Alderman would change his ways?

A. That's true.

Q. And when you say little likelihood to change his ways, you mean it was likely in the letter that he was going to continue to criticize the Board?

A. And probably as is the same manner.

Q. So what you were afraid that he was going to do in the letter was continue to criticize the Board in the same or similar manner that he had done in the past?

A. As he had done at the 10th hearing.

Q. And Mr. Alderman in the correspondence has criticized the Board on many occasions, correct?

A. That's correct.

Q. And with the exception of the very first day of the meeting in question, in all those other occasions that he has criticized the Board, you don't have any problem with that?

A. In the three years that I've been there, I have no knowledge of how he was going to go to the meeting.

Q. So for the three years that you've been there, you at least no problem with him criticizing the Board with the exception the one meeting?

A. That's correct.

Q: And during the three years prior to your term there, Mr. Adkinson has been very active in the political community, in the local community concerning school board positions?

A: Yes.

Q: And so you have the three year experience with Mr. Adkinson. You have one question as how what you disagree with him to add to, but in respect to the other three years of your experience, you have no disagreement with what he's done?

A: He has sought to bring plausibility.

Q: And is this Respondent's Exhibit #1 the evidence that you used to support the notion that Mr. Adkinson couldn't have changed his behavior if he was appropriately counseled or given the opportunity to do so? This exhibit is here, but doesn't use any name which in the exhibit does he?

A: No.

Q: He doesn't? I don't even think call anybody a thief in the state he?

A: He did.

Q: And, I request to you that he doesn't use the term "robber" in this letter, would you be able to repeat that?

A: I don't consider that to be.

Q: And I request to you that he doesn't use the word "thief" in this question, would you be able to repeat that?

A: I don't consider that either.

Q: And what was the date of this email, I can't tell?

A: It's March 23rd.

(Q) So it's like this panel, where he doesn't own, doesn't call students research and doesn't use the word students that you complain that counseling would have had no effect on Mr. Alderson in the future?

A. That I stated.

(Q) You'll have to forgive my ignorance about the different disciplinary measures that the school board can impose, but do they have counseling where you can get re-employed on a probationary period or a supervised, where they are supervised for a period of time?

A. I think so.

(Q) And they also have, like you said, the verbal responses?

A. Yes.

(Q) You probably have informal meetings where you can talk to people and just say how are you doing or something about that?

A. Yes.

(Q) It doesn't actually go in the record?

A. Yes.

(Q) You have suspensions with pay and without pay?

A. Yes.

(Q) And you have warnings? Like, warnings?

A. Yes.

(Q) You can give people an improvement plan?

A. Right.

Q. And you've already answered this. But some of that was referred to Mr. Adkins, correct?

A. That's correct.

MR. BAILEY: Maybe Mr. Bailey and I can do this in separate things, but I just want to get some exhibits in and if we could elaborate a little bit more. I'm not going to question him about it, I should have done it while we were questioning, but I haven't got, in my letter that I wrote him on the 17th and I don't know if you have any objection to this or not.

MR. BAILEY: No objection.

JUDGE STATAVOLI: I already marked that one.

MR. BAILEY: And then I have the school board minutes, I guess the earliest entry is 11-17th from the April 8, 2002 meeting where Mr. Adkins was found out to be 100% at the direction of the Board.

MR. BAILEY: That wasn't under direction of the Board. I think the State Police did that themselves, I don't know what happened.

MR. TURNER: Well I have one the minutes of the Board meeting. That's all I want to introduce.

JUDGE STATAVOLI: Here you go, just

MR. BAILEY: Yes, I've seen them. I don't have any objections to those except for relevance.

MR. TURNER: Object to them, Judge?

JUDGE STATAVOLI: Overruled. Object to

July, 2017/2018 - Another Judge here in the course of the meeting where the Franklin County School Board officially apologized to Mr. Adkerson for violating his constitutional rights and right pursuant to the governmental proceedings act.

MICHAEL RABILLY: I have no objection to that so long as we withdraw the statement agreement that produced the apology.

MICHAEL RABILLY: That, I've got that. Another Judge, as part of the withdrawn agreement, the school Board was forced to undergo Open Governmental Proceedings Act training and the State Attorney General said this is a signed sheet of the Board members that were present at that hearing and the public notice that they were required to give as a result of the charges that Mr. Adkerson brought. So that would be four 1 pages. That's all.

JUDGE MICHAEL RABILLY: Are you familiar with that?

MICHAEL RABILLY: Yes.

JUDGE MICHAEL RABILLY: This will be Director's Exhibit H.

MICHAEL RABILLY: And from the Judge in the school complaint that Mr. Adkerson filed against Dr. Law and Allen from committing perjury, the charging of enhancement of public funds.

MICHAEL RABILLY: With the Prosecuting Attorney.

MICHAEL RABILLY: Is, does this file with the Prosecuting Attorney? I withdraw that Judge. It was initially submitted to Dr. Law and then I have the enhanced documents from the litigation. Although it is not a signed copy, we are going to deposit that into the evidence. That's what you guys produced to us.

MICHAEL RABILLY: That's fine.

you've never Judge Page's signed copy. I guess I copied the wrong thing, but that's actually the utilization that was raised first and then

JUDGE SPATAFORO: And that's Governor's Exhibit 15.

MR. HALLIVAN: And then we're, we would actually be the apology. Do you have an objection to that?

MR. HALLIVAN: Is this in the same filing that is in the Board minutes?

MR. HALLIVAN: This is just something that was prepared by their counsel.

JUDGE SPATAFORO: It's already in the Board minutes, that would probably be the best.

MR. HALLIVAN: Okay.

JUDGE SPATAFORO: I think the best evidence of exactly what was said.

MR. HALLIVAN: Your Honor, Judge, Page. I think that is all the evidence I have.

JUDGE SPATAFORO: Any objections? Plaintiff's Exhibit 1 through 6, or is it 7? I think they only have five. Any objection other than relevance?

MR. HALLIVAN: Yes, my understanding is that is generally allowed to demonstrate [precedent] utilization for the retirement agreement, utilization for the benefit. Is that what this is being offered for?

MR. HALLIVAN: Well, that particular agreement was the product of the Board's ongoing negotiations and the result of Mr. Morrison's utilization.

JUDGE SPATAFORO: Essentially he's changing evidence. That's how I take it.

MR. HALLIVAN: No objection that that's the purpose.

JUDGE SPATAFORO: All right. Then those documents are now relevant evidence.

MR. HURKEL: That's all the questions I have.

JUDGE SPATAFORO: Any further questions.

MR. DAILEY: Just a couple. Following. Following on the counseling, reprimands and plans for improvement.

REBUTTAL

Q. It's my understanding that if one gives an employee a reprimand and set in confidence to perform their job well it is a chance for them to reassess the skills and improve their performance of their duties. Is that fair to say?

A. Yes, and they would generally indicate some opportunities for that individual to improve in areas or that lack of skills.

Q. And in terms of counseling, reprimands and written warnings, are those generally effective to extinguish inappropriate behavior of the employee down to acknowledge anything at all?

MR. HURKEL: Objection, leading, speculation.

MR. DAILEY: I don't think it's leading. I just asked the question, is it generally effective.

JUDGE SPATAFORO: He can just his opinion.

A. That question was?

Q. Is it effective in administering warnings, doing a written reprimand and doing something less in terms of punishment, is that effective in extinguishing the behavior that you're worried about if the employee won't even acknowledge that they are doing anything wrong?

A. It's not offensive of the employee to not admitting that there's something wrong; especially if they know they're not going to change what they're doing.

MR. DALLY: What did you hear?

MURKIN DEFENDANT: Anything further?

CHARGE EXAMINATION

(Q) What's your degree in?

A. My degree is in education.

(Q) Is it in psychology?

A. No.

(Q) And you said that those other disciplinary actions that, of termination, wasn't effective in getting people to change their behavior if they wasn't about that what they did was wrong?

A. What I said was, that if someone is unwilling to admit that they did something wrong, then asking them to do it differently would be going against their will as far as what they feel was right or wrong.

(Q) And I was talking at you with the discriminatory discrimination and I think I see anywhere where you offered Mr. Alabemba the opportunity to admit that what he had done was wrong.

A. I didn't think Mr. Alabemba has admitted that he did something wrong.

(Q) Well did you ever have a meeting with him with other people present and only him volunteer or not to tell the Board about something wrong and have a discussion about it?

A. No.

MEMORANDUM: TRANSCRIPTION SERVICE
(800) 555-1234

MR. HARRISON: No further questions.

JUDGE STANTAFFER: Mr. Bailey, okay when you next return?

MR. BAILEY: Mr. Tamm.

JUDGE STANTAFFER: Okay.

(Witness Testimony)

WITNESS TESTIMONY:

KENNETH WATSON

Having been first duly sworn to tell the truth, I testify as follows:

DIRECT EXAMINATION

BY MR. BAILEY

Q. Mr. Tamm, could you state your name for the record please?

A. Kenneth Wagner Tamm.

Q. And what's your current position with the Pocahontas County Board?

A. President of the Pocahontas County Board of Education.

Q. And could you explain your service as a Board member?

A. I have been on the Board for eight years, one term was from 1980 to 1984, another had to resign, and another I'm serving, this is starting my ninth year.

Q. And how long have you served as president of the Board?

A. Two, three or maybe the second four years.

Q. And before you were a Board member, did you have another life on to educate?

A. As principal of Pocahontas County High School for 23 years (inaudible). I started in 1966 and then I worked at Lewis Creek High School from 1966 to '76.

EXHIBIT TRANSCRIPT INDEX PAGE

Q345 (20-1483)

Q. Mr. Warner, let me direct your attention to the board meeting that was conducted for Mr. Alderman. Did you preside at that meeting?

A. Yes, I did.

Q. At any time during the meeting did you interact with Mr. Alderman and communicate with him about how he may conduct himself?

A. Well, yeah a few times I asked Mr. Alderman to stay outside or to, he would get on something that didn't pertain to the board meeting. He would get on something else and I asked him at least three times to stay outside or what we were doing.

Q. And how would Mr. Alderman react? Did he respond to your directions?

A. No, he just kept on doing what he wanted to do, whatever he had set out to do that night.

MICHAEL SPATAFORO: Let me object to that. What he set out to do throughout, it is purely preposterous, self-serving testimony and has no credibility based on the record. The only thing Mr. Alderman set out to do that night was figure out why he was banished. Whether or not the Board had a legitimate reason to do it.

MICHAEL SPATAFORO: Okay, I'll rule your objection.

Q. Now Mr. Warner, you do think that meeting?

A. Yes.

Q. Did she have anything to do with the recommendation or the decision made to banish Mr. Alderman that evening?

A. Not that I know of, no.

Q. What was your understanding of why she was there?

A. She was just doing her calling - I think which she does for every hearing or anything, she does record it.

Q. Do you recall any statements that Mr. Alderman made about his free-for-all morning?

A. Yes, at that same time however that she recorded and called me were other things.

MR. ALDERMAN: Your Honor, if he wants to testify as to what he recalls, let the Commonwealth speak for itself as to what was said and there's a transcript of it. There's even a video of it.

MR. HANLEY: While it doesn't necessarily speak a great deal of how on it, I was trying to lay a little foundation.

MR. ALDERMAN: Okay, go ahead.

Q. Do you consider evidence of Mr. Liver's pursuant to the reasons that were set forth for Mr. Alderman's transcript?

A. I think it's important for them, it had nothing to do with his transfer hearing. What he was saying or whatever said about him.

Q. Could you explain to the ALJ what your children are in school board #Bentwood?

A. Well I think that the school board has to look at every issue and everything that comes before the board and we haven't been control and conduct the meetings no more than that we are instructed. And the same is with the superintendents. We're in control of the whole system. So I think we used to be in control in meetings and of the whatever that come before us. And it seems to be an activity type office so that there's no

information and I think if we would sit and listen and let everybody just you know, say what they really want to do about people on the Board, we wouldn't there may effectiveness. We might as well give it up.

Q. Now did you at any point call Mr. Alderman out of order, basically say, listen to this what you're saying is out of order?

A. I called him Mr. [The word] starved back when he was doing that right, off what he was doing. No, nothing happening. I don't know whether I actually said that, you know told him he was out of order. I just mentioned a couple of times that he was not carrying out and I didn't think there was any more reason to even say, you're out of order. He had no believe he was going to do what he wanted to do.

Q. Now did Mr. Alderman at any point mention any concerns about the gold trust money expenditure?

A. Mark is one of the representatives he brought in was a representative saying that the money had not been spent properly or how it had been spent, that I had been wrong and we took the information to give us and listened to what he had said then, so we do with everything, we let the representative and Mr. [the last] look at it and then come back and tell us what to do.

Q. Was there any disciplinary action taken in response to Mr. Alderman's comments today sir?

A. No there's not for him sir.

Q. Why is that?

A. Well, he really wasn't out of line. He was just, I feel that what he does in a way, it's helpful to us because then we check and make sure the things are going right.

Well yes, I don't think that he was ever involved in the school board or anything like that. He has a job, will be living there helping the Board or any other Board if he.

MR. SAWYER: I think that's all I have on David or Mr. Vinton.

MR. SPATZ: Your Honor.

CRIMINAL EXAMINATION

BY MR. SPATZ.

Q: Mr. Vinton, you were principal where in the past Mr. Alderman taught, correct?

A: Yes.

Q: And what school was that, where Mr. Alderman taught while you were principal?

A: Pocahontas County High School.

Q: Do you remember what year that was? I'll keep your memory. I don't know.

A: I joined in 1996 so it was about probably 10, 11 years from that time.

Q: And how long were you principal?

A: 25 years.

Q: And how long was Mr. Vinton there while you were principal?

A: Probably 13, 14 years.

Q: And during that 13 or 14 years he taught in a classroom setting?

A: Yes.

Q: And at some point he became a certified child instructor for students, correct? Who did under your watch or not?

RECORDED TRANSCRIPTION SERVICE
CITY OF BIRMINGHAM

- A. He might have been certified, but he wasn't doing the work.
- Q. And normally, do you know what his current job is? Or was he still on the faculty?
- A. Well, yes. He was working as a licensed vocational teacher and he also was working with, he had been through quite a bit down there with the computer students, personal.
- Q. Right, technology.
- A. Technology-type stuff.
- Q. And Norman did a real good job working with the computers and trying to convert to the consequences of technology that would help the educational environment, or do you know?
- A. As far as I know, yes.
- Q. And as a licensed vocational teacher do you know he did a real good job with that?
- A. I cannot answer that.
- Q. Okay, well you don't know my name is George that will represent that he performed the education that he received (unintelligible)
- A. No.
- Q. And during your 11 years that you worked with Norman while you were his principal, he did a fine job as a teacher, didn't he?
- A. Well, possibly if you looked at all his evaluations, it could per-

(Q) After during that 11 years that you had direct supervisory responsibility of Mr. Alderman he never did anything inappropriate in terms of safety concerns with students or anything like that?

(A) About every day I'd be calling for somebody to come to the office for something.

(Q) Disciplining students?

(A) Disciplines.

(Q) But in respect to the behavior as a teacher as we perceive this evidence, he was never disciplined in any way? At least he was a harsh disciplinarian. How did you participate in any discussions concerning what the Board was going to do in respect to his employment after or as a result of the trustee hearing?

(A) Never set me that issue.

(Q) When the school board and Dr. Lauer were making the determination to terminate the employee of 20 years of the school board that has never been disciplined before did you participate in any of those discussions?

(A) No, it was all with the superintendent.

(Q) Do you know whether or not any other board members participated in those discussions?

(A) I do not, I cannot answer for them.

(Q) Had you're familiar with the notion of progressive discipline system?

(A) Yes.

(Q) And despite the fact that you have personal knowledge that the teacher from a 20+ year tenure of the school system had never been disciplined, could let me

back up a comment. You obviously and your staff are there to make sure that as many what Norman does is helpful to the Board because if kind of keep you honest, doesn't it?

A. That could be.

Q. And what you're implying is what he did to be neutral on this one moment in time at the meeting hearing?

A. Yes.

Q. And you dealt with Mr. Alderman for years in respect to his local actions in the community, correct?

A. Pretty much at the school.

Q. Okay. With the school board, I mean for how long dealing with just guys like you know that?

A. Ten.

Q. And during those years of experience with Mr. Alderman, when he has been a political activist, engaging in behavior that you even characterized as helpful, have there been no problems with Mr. Alderman?

A. Past would be helpful.

Q. Okay. But in those years that you've been in the community and as a school board member or school board employee, writing up and sometimes being the subject of Mr. Alderman's actions, there was no problem in terms of how he did it?

A. As far as I'm thinking him, not, there were no problems.

Q. And you voted in favor of the tree because you liked Mr. Alderman, correct?

A. Yes I did.

Q. And when you voted in favor of the resolution to terminate Mr. Adelman, you knew that he was a 30-year employee of the school system?

A. Yes I did.

Q. You knew based on your 13 years of experience with Mr. Adelman that he performed his duties as an employee in a satisfactory or more than satisfactory manner, correct?

A. Yes.

Q. And you know when you voted in favor of that resolution to terminate him that he had substantially assisted the county board in developing technology that was beneficial to the public education enterprise?

A. Yes.

Q. And you know when you voted favor of that resolution that as all of the other districts with you with the exception of the counties as they are members to some or that one reason where it was the subject of a major loss of her job, that he engaged in appropriate and courteous helpful behavior to you?

A. He did in those ways.

Q. Okay. Yet despite all that, based on that one answer in here, and that one incident or his conduct in that conversation having you voted in favor of the resolution to terminate, can you repeat?

A. I did.

Q. You mean, of course, that when that Mr. Adelman was Teacher of the Year at one point?

A. Yes, I did.

Q: Do you know who that was?

A: No.

Q: Okay. Do you have any general feelings about your decision?

A: No, I don't.

Q: You mentioned that you were on the Board and then were given the Board and then ran and got re-elected, correct?

A: Yes.

Q: The reason that you were on the Board and became you were elected, correct?

A: That's right.

Q: And Mr. Adkins was the individual that brought that proposal out.

A: That's right.

Q: And he was successful in that proposal out.

A: Yes.

Q: And he did that earlier from acting as the representative.

A: Yes.

Q: And the basis of the removal action against you was the fact that you were serving as two public offices at one time.

A: That's the reason, yes.

Q: And it came under your agreement with Mr. Adkins and removed you from that school board.

A: That's right.

MICHAEL: Could I have a minute to talk with Attorney please?

CHILDWELL TRAVERS MORTON SERVICES
(304) 399-5460

MR. SPANAGEL: Your Honor, the second hearing.

MR. HUMPHREY: We can do a short break or something.

(INTERMISSION a brief disturbance was had off the record.)

MR. SPANAGEL: Okay we're back on.

MR. HUMPHREY: Thank you.

Q. You were the president of the Board at the time of Mr. Alderman's water hearing, correct?

A. Yes.

Q. And you, as part of the previous scope of your responsibilities etc., I think as you testified, I think correct that the Board exchange agenda items weekly before hand?

A. Yes.

Q. And you, of course, are aware that your obligation to hold somebody on an order and rule that they are out of order based on their conduct at a meeting, correct?

A. I am.

Q. And you chose not to do that in respect to Mr. Alderman at the hearing?

A. I did.

Q. That was a rhetorical question. You never ruled him out of order, correct?

A. I didn't.

Q. Okay. Considering that hearing he stated the water hearing Mr. Alderman was seated at a table like this?

A. He was up a couple of times.

Q. What, in your documents, are exhibits to the project?

- A. That is fact, sir.
- Q. But for the real majority of the time he was seated?
- A. Yes.
- Q. You know how, as we are now, directly across from the Board?
- A. Yes.
- Q. And so therefore the Board about certain issues regarding him or potential members by law about whether or not the Board members were apparently qualified to sit on the Board? And you disagree with that because you felt like that that wasn't relevant to his status because?
- A. That's right.
- Q. But you would agree then if hypothetically a Board member wasn't qualified to sit, that the individual has questioned the integrity of the lawfulness of the Board's action?
- A. If the Board member wasn't to be there, as I should have been when one of them left their seat.
- Q. Okay, but if there was a Board member there that was disqualified by operation of law and it was later determined that that Board member was disqualified by operation of law, then that would give Mr. Adkinson a way to challenge the Board's decision to nominate, would it not?
- A. I wouldn't do. You've got four other Board members.
- Q. If there was a person at the meeting that voted to nominate Mr. Adkinson and that person was not in a manner of law qualified to sit as a Board member, then would that not call into question at least the integrity of that one Board member's vote?

A. Marks that one Board member's yes
Q And therefore Mr. Alderman is entitled to question, his insinuation should be entitled to question whether or not board members are adequately qualified to make judgments about: Should he not?
A I don't think so.

Q During that meeting did you speak up?

A No, I never heard Mr. Alderman come

Q He never threatened the safety of a Board member?

A No, not the safety.

Q And nobody had been sent to handcuff him they didn't? April 8, 2008

did they?

A No they didn't.

Q Was there a member of the Board whom that happened wasn't you?

A I was.

Q And you remember that the reason that the school board landed, well the State Trooper in response to the president's description of that time, which wasn't you, Mr. Alderman right?

A That's right.

Q And the reason that Mr. Alderman was located outside of the community, in handcuffs, by a State Trooper, who by the way Mr. Alderman might be asked, was because Mr. President was Mr. Alderman making a video tape of the meeting

A That's, yes.

Q And you filed a lawsuit after that didn't you?

A Somebody did. I don't know if you will or not.

Q And, we have exhibits, but I'll represent to you that I was his counsel. I do remember if we named you individually, I think we just named the Board, didn't we?

A I think you named Mr. (unintelligible) and Mr. Reed.

Q Okay. And as a result of that litigation you all agreed upon to Mr. Alderman, didn't you?

A That was part of the settlement, yes.

Q And as part of the settlement you also were required to undergo training concerning the First Amendment and the West Virginia Open Governmental Proceedings Act.

A That's right.

Q And that training was to be publicly financed, which it was, and you were to agree when you attended that, correct?

A That's right.

Q And you did that?

A Yes.

Q And you were to that training?

A I did.

Q You remember them talking about the First Amendment?

A Yes.

MR. DEONSE: I don't have any further questions.

JUDGE BRATTON: Mr. Bailey?

MR. BAILEY: Just a couple follow-ups.

INTERVIEW

BY MR. BAILEY:

Q. Mr. Blakes asked you if you called Mr. Alderson out of order during his regular hearing. Is there a reason why you didn't?

A. I didn't feel that I could, you know. I called him to my office and I didn't feel it was good to do it. That didn't feel it would make any difference.

Q. Mr. Blakes, on behalf of Mr. Alderson, has asserted the following: he never witnessed that there was a concerted campaign to terminate Mr. Alderson's employment. Are you aware of any campaign of that sort?

A. No.

Q. Have you ever had any discussions with other Board members or the superintendent about strategies or efforts to terminate Mr. Alderson's employment?

A. No. I haven't.

MR. BAILEY: That's all I have.

JUDGE BRATTON: Mr. Blakes?

MR. BLAKES: I don't have anything further.

JUDGE BRATTON: I just have one question, just for my own education. If a Board member was in some kind of an illegal position and their capacity to be on the Board was compromised, what is the procedure to take care of that and to remove them?

Who does it honestly and truly by his wife. You have answered. Who was that
person you in what I am asking?

MR. VANCE: The judge is a three judge panel.

JUDGE SPATAFORCE: As in Circuit Judge?

MR. VANCE: Yes.

JUDGE SPATAFORCE: And who appoints the panel? Who does?

MR. HENDERSON: The Supreme.

JUDGE SPATAFORCE: The Superior Court? The just and timely with due
process

MR. VANCE: I motion that's withdrawn.

JUDGE SPATAFORCE: Okay, so you had some basis in having before a panel
of Circuit Judges?

MR. VANCE: Yes.

JUDGE SPATAFORCE: Okay. I just wanted to know.

MR. VANCE: There was four of us.

MR. HENDERSON: Actually somebody else was removed from court?

MR. VANCE: Yes. From the panel he deserved. At that time Dr. Ferris, the
Superintendent was out and Ruth Taylor, a Board member, there were 1 anything done
with her. She both Legal Panel and I thought we meeting, and there were appreciated
her, the next morning or a morning after that.

JUDGE SPATAFORCE: Okay.

MR. HENDERSON: What year was that, Mr. Vance?

MR. THAYER: Wilson, I think and I believe you and I are two or three years apart now, four years ago.

JUDGE SPATZER: It's a statutory answer of protection, Judge.

JUDGE SPATZER: I know. I was particular. Okay. Thank you.

MR. THAYER: Wilson, make report here too.

MR. BAILEY: I did somebody here in the 8th besides the Board.

JUDGE SPATZER: Right and that's who I was asking. It wasn't necessarily how it occurred legally. All right, well why does it make a law? Don't get off the record.

(Court in Session)

JUDGE SPATZER: Okay, we're back on the record. Mr. Baileys, who is your next witness?

MARY ANN MULLEN: Cross Address.

JUDGE SPATZER: Okay.

(Witness sworn.)

INTERROGATOR:

DIRECT EXAMINATION

BY MR. BAILEY:

- Q: Mr. Muldoon, would you state your name for the record please?
- A: Sean Muldoon
- Q: And where do you currently reside?

NATIONAL TRANSCRIPTION SERVICE
(800) 334-4488

A. Marion.

Q. And what county is Marion?

A. Pinellas.

Q. And do you have children in the public school system there?

A. Yes I do.

Q. And what are their ages and grade levels.

A. I have a daughter that is going to be a sophomore this year and I have a son who just graduated this year.

Q. And what schools did they attend?

A. Pinellas County High School.

Q. Mr. Medina, did you attend a meeting of the Board involving a transfer hearing for Mr. Adkins?

A. Yes I did.

Q. And could you explain to the Administrative Law Judge who you were in attendance at that meeting?

A. I was in attendance in that meeting. I was present. I had heard that Mr. Adkins was going to be transferred to the high school in the teaching position and that concerned me since I had a child in the school.

Q. And where were you seated? Was you seated in the meeting room throughout the hearing?

A. Yes I was.

Q. And could you describe to the Administrative Law Judge, what you observed in terms of Mr. Adkins's conduct during the hearing.

A. Well, I was there, because I was there to hear Mr. Albrecht plead his case for his job and what was going to happen with his job. What I heard and was another story. Actually I was pretty appalled that I heard what I heard and I wanted to tell my superiors that very and still keep their job. I heard everything I heard from Mr. Albrecht plead his case as to his position with the school board.

Q. And could you be a little bit more specific as to what exactly you were appalled about?

A. I know Mr. Vose was called a "hoof". I think you were told that you said there slightly maybe. Don't quote me on that exact words. I know one of the board members was called an "asshole". I think Mr. Vose has accused of being one to get Mr. Albrecht. That's all I can think of off the top of my head. There might have been more, but.

Q. How would you characterize that particular meeting or some of other you observed and/or compared to other board meetings that you've attended?

A. It was very unprofessional. My personal opinion, it's not them to plead my case and try to save my job. I could have been there to try to save my job, not those other people of things that was not the time and the place for. I was appalled as well as everyone else that was there, the way it was conducted I guess. And I have on several different occasions Mr. Vose told Mr. Albrecht that he needed to get back on track and that never did happen. I know Mr. Albrecht wanted to tell some people in the audience, but I think he was cut off and he never had the opportunity to do that because of those other issues.

(Q) Do you have any concern as a parent and a citizen of Franklin County about meetings of this sort occurring at the Board?

A. Oh, absolutely. Because it costs the dollars, I mean it costs your a certain amount. It's hard to pay your whatever. I mean the meeting basically did not even do a purpose for what we were there for. Yeah, I do have concern of other meetings being like this. I mean no one wants to see a meeting being conducted like this. It was just very unprofessional. Unethical and I think represent our school system the way it should have been represented. I mean I don't know if I answered your question properly or not.

JUDGE SPATFORD: I think that will close on those Passages.

JUDGE SPATFORD: Mr. Huber?

CHIEFS EXAMINATION

BY MR. HUBER:

(Q) Mr. my name is Jason Huber. I represent Mr. Allderman, the Plaintiff. Did you attend the termination hearing?

A. No, I did not. The meeting I was in was not the termination, no.

(Q) You are aware that the Board subsequent to that transfer hearing voted to terminate?

A. That's correct.

(Q) At the off hand today you don't know that Mr. Allderman has been terminated, and that's why we're here today?

A. Uh, yeah. But I was not at the meeting. I didn't attend the meeting. No.

(Q) Why didn't you attend the termination meeting of your last three concern?

EDMOND TRANSCRIPTION SERVICE
1-800-334-8100

A. I don't know why I didn't attend. I was a business and there was a lot of other meetings I participated. I try to attend the ones I can.

Q. Well, but you don't have a specific disclosure right now to tell us today whether or not it was a business responsibility for you to do your?

A. No, I don't.

Q. And at the December meeting you had a fairly good knowledge of how Mr. Albrecht behaved there, correct?

A. Yes, I knew him well.

Q. Have you had any discussions with anybody about how Mr. Albrecht behaved at the December meeting?

A. No, I have not.

Q. Now prior to the December meeting, did you ever attend a Board meeting where Mr. Albrecht complained to the Board about the amount of money the school board spent funds related to the golf team or the golf program?

A. Yes, I was.

Q. And what's your recollection on the golf team?

A. I did a few things golf. I traveled with the golf team pretty much every month. It helped the coaches out and I provided transportation.

Q. So you were very involved in the golf program?

A. Yes I was.

Q. And you attended that meeting where Mr. Albrecht complained about the golf expenditures, correct?

A. Yes.

- Q: Why did you stand there smiling?
- A: Because he was there to complain about, we were there to represent the golf team.
- Q: All right. And did he make any personal comments about how you handled anything in respect to the golf team?
- A: Yes, actually he did. He made a comment that our no parking should be funding these things instead of the money, I don't know what his exact words were, but,
- Q: And how did that make you feel?
- A: I respect the treasurer very much, but Jimmy, which is the golf coach, and Jimmar, which the assistant golf coach, spent a lot of personal money as well as I did. I probably spent thousands of dollars on the golf team.
- Q: So you're upset about his attitude regarding your involvement in the golf team?
- A: Oh absolutely, sure.
- Q: And you're still upset about that to this day?
- A: Oh yeah, most definitely.
- Q: And is that comment concerning Mr. Allderman's complaint about, for me back up, be concerned about, his concern over a possible invasion of their, ourself?
- A: I believe that was his wording.
- Q: And is that memory he believed as a responsible person?
- A: I'm not sure I would call it a responsible.
- Q: What was responsible about it?

A. Well I don't think you're at a Board meeting and you have several and all the parents (as are there representing), that have laid claim on the golf course, that we have the best oldest people in the country.

Q. What if this is public meeting, yourself?

A. It may be a public meeting, but I don't think that's the place for it. Having you like I said,

Q. Well, if it's not the golf course the place for Mr. Addisian to articulate his school board as a public meeting, where should he do it?

A. Oh, I'm not talking about criticizing the School Board. I'm talking about personally addressing me as an individual or my other parent as an individual.

Q. And did that upset you when he personally addressed you at the meeting?

A. Uh no, not actually in the meeting. I wouldn't call her when he comes, he can address the different areas in the country if he wants. I mean, there's no issue. But it seems whatever he wants to. That would be great, but that's another issue.

Q. Okay, you don't really take issue to the fact that he wanted to say that at a public meeting?

A. No, that's not the place for it, but I mean if he chooses to do that I guess he has a right to do that.

Q. You might conclude that decision, but you agree that it is constitutionally protected making that?

A. I suppose, yes.

Q. And did you, after the meeting, have any contact with Mr. Addisian?

- A You know after that?
- Q After the meeting where the expenditures on the gold mine was discussed?
- A Yeah, I believe he pointed his finger at my nose.
- Q That was outside?
- A Yes that was outside.
- Q Did you call him any names?
- A I believe I called him something, yeah.
- Q Did you call him an N-word?
- A It could have been. That's what he says. I don't remember that.
- Q Did you call him that?
- A No, I didn't.
- Q So after the meeting where your colleagues were questioned concerning a possible mislocation of funds, you were upset and called on Mr. Alcornian?
- A Oh, absolutely.
- Q Was anybody present when you were upset and called on Mr. Alcornian?
- A Pretty much. I believe everybody was there. A lot of people. I don't remember who was and who wasn't.
- Q And during that meeting when he talked about the gold you had never owned, did he?
- A Not that I know of, no.
- Q You've probably never even heard Mr. Alcornian ever name, have you?
- A Not that I know of, no.
- Q And you don't think that that is problematic?

A. Yeah.

Q. And you're aware that he also was an elected County Commissioner at one point?

A. Uh-huh.

JUDGE SPATTFORD: Can you answer out loud.

MIC. SPATTFORD: Yes, for the record.

A. Oh, I'm sorry. I'm sorry.

Q. And was anybody in this room present, besides Mr. Admire, obviously when you started here?

A. I don't know. I don't think anybody in this room was there, no.

Q. And during that meeting, besides the reason that you didn't like, although you recognize it's constitutionally protected, during that meeting concerning your expenditures, Marion addressed his concerns as a responsible professional yet critical manner to the Board?

A. I wouldn't call them professional, but.

Q. There was nothing inappropriate about what he did, or how he handled it in the Board?

A. Well it depends on what your norms and values are, whether they're appropriate or not. Maybe to you they may be fine. To me they weren't.

Q. But as far as here exists, there was, no harm no foul other than he scared anybody during that meeting?

A. Oh, no.

Q. Did he threaten anybody during that meeting.

A. No.

Q. And certainly he did no come during the meeting?

A. No.

Q. And you would agree then, well how much money was requested concerning the gold train expenditure?

A. Minimum \$2000.00.

Q. That's a pretty significant amount of money, would you agree? Especially in some of the gold train budgets I see.

A. Well, yeah.

Q. What's your best budget?

A. Not, we didn't have a budget. The powers spent most of the money. It would've been more than that, presently on the gold train, you know.

Q. But you would be incorrect because as you mentioned earlier I know when Mr. Deiley was questioning you about your concerns regarding Mr. Hansen's behavior at the trustee hearing, you indicated you were unprepared and that was one of the concerns that you had, right?

A. It was like \$2000.00 I was concerned about. It was what I was going to do with that kind. It wasn't the money issue. It was taking away our credit, personally. Those are the things that upset me. It wasn't the money.

Q. But what I'm asking you is, when Mr. Deiley asked you about your concerns regarding my client's speech at the trustee hearing, you indicated that the reason that you were concerned about what happened at that trustee hearing was because we're taxpayers and you pay for the Board's taxes?

A. None.

Q. And you would agree that no taxpayer, which presumably like Mr. Adlesman, has the constitutional right to question whether or not his son is being taught appropriately by the public schools?

A. Of course.

Q. How many hours long have you been on Pocahontas County?

A. Approximately 12 years.

Q. And how long were you given?

A. 17 years.

Q. And I don't know if you continue, but what do you do? What is your job?

A. I work in business.

Q. What business is it?

A. Motel and restaurant.

Q. And what motel and restaurant is it?

A. It's the Red Carpet Inn.

Q. Are you aware that Mr. Adlesman has been teaching in the public school system for approximately 20 years?

A. He's been on the school system, I don't know if he's been teaching.

Q. When you mean that he was going to taught in the classroom setting?

A. That.

Q. Are you aware that he also uses a Certified Gifted Instructor?

A. I am not aware of that, no.

Q. Are you aware that he has taught on an individualized instructional basis, too?

- A. Yes, I have heard of that.
- Q. And do you aware that he subsequently joined the school board in respect to the development of technology that would benefit students and employees?
- A. No, I'm not aware of that.
- Q. Would you have any reason to dispute my statement that during all of these different jobs that he has performed for the school board and all of the time that he spent as an employee that he has never been more over compensated?
- A. Oh, I don't know about that cause of my business.
- Q. But you don't know my reason to dispute that?
- A. No.
- Q. You indicated too I believe that just as your concerns over the transfer hearing, what you needed to know that your concerns were the absence of records in regard to what he said about particular happenings?
- A. I think.
- Q. Are you indicating yes?
- A. Yes. My concern was the way he handled himself was problematic. I questioned whether I wanted my child among at his classroom. They are his students. That was my concern.
- Q. Did you ever do anything in respect to asking the Board about Mr. Albrecht's teaching credentials, career or disciplinary history to receive other information that would help you form an opinion about him, how he performed his duties as a teacher?
- A. No, I did not do that. I had just everything provided to me.

Q: You stated at all on that you received a memo?

A: Well no. I've seen Mr. Alderman's other memos that I thought were not professional. Here again, that's my personal opinion. The way he conducted himself.

Q: At that meeting, Mr. Hanson never called Mr. Alderman out of order did he?

A: And Mr. Hanson never told Mr. Alderman that he was out of order?

Q: Did he rule him out of order?

A: No, I can't say for sure. He may have said he was out of line. I didn't know that for sure.

Q: And at the meeting where Mr. Alderman, I mean this is his transfer hearing. You understand that right?

A: I did.

Q: And normally, you nor understand how somebody who is being evaluated from a longstanding position with the Board per say you in your private capacity as a teacher, would become upset about that?

A: Well more, definitely.

Q: Especially if you felt that that transfer was no evaluation for having taught in consistently good education (unintelligible) public schools?

A: It's possible. Because I don't know anything about that, but.

Q: But you could understand how somebody would be upset about that?

A: Yeah.

Q: If something like this happened to you, you'd be upset about it or you wouldn't you?

A. Well, I ought to speak first I think I would, just I would plead my case. That was the reason we were there. We have been talk about him some and what he has done for the school system. That's what I thought he was there for.

Q. And, as you disagree with the method in which he conducted the trustee hearing as well? Is that one of the subjects matter of his questioning of the Board?

A. I don't do our state, I didn't do the one like questions to the Board and the questions he had for the Board I don't know. I just, what I am saying is, the way that he conducted himself with certain people of things. That was my reason.

Q. At the Board Hearing when Mr. Yancey said that Mr. Abbotson was out of line. Do you recall when Mr. Abbotson said, I want to object or something to that either as it relates to me enough does for me to conduct my business?

A. I remember that.

Q. And you remember some people laughing at that comment because they thought of some things?

A. I don't remember people laughing, but it could have been.

Q. That's on the tape you wouldn't have any reason to ---

A. No, I don't remember that.

Q. And when Mr. Yancey said that Mr. Abbotson's time was up and he turned to Mr. Yancey and stopped his presentation?

A. Not immediately, so he did not.

Q. Well shortly thereafter?

A. Shortly thereafter but you know he

Q After the hearing, during the recesses that you have, you must make any motions to the Board, do you?

A No. I won't even think I was able to.

Q You didn't make any motions then?

A No, I did not.

Q After the hearing, did you have any discussions with any Board members about that?

A About the actual motions itself?

Q Yes.

A No I did not. I talked to Board members, but we didn't talk about the hearing. I talked to Mr. Levy.

MR. HARRIS: Could there a second Judge?

MICHAEL SPATAFORO: No, it's off the record.

(RECORDATION: A brief discussion was had off the record.)

MICHAEL SPATAFORO: Okay, we're back on the record.

Q Okay, I think I asked you this sir, but as far as how today, you have no personal knowledge one way or another of how Mr. Aikman actually performed his duties as a school board employee?

A Only memory.

Q Have you seen Mr. Aikman's Character and Record?

A Five years, probably two years ago.

Q How long been on the record?

A Not for probably a year.

Q. And that's an electronic newsletter Mr. Alderman has where he kind of reports on things that are happening in the community?

A. You mean the Prince? I don't know if that what you call it?

Q. Is you asking me if that's what he does on their website?

A. Right. I guess, yeah. Like I say, when there almost a year since I've been on it, so I don't know what's been in there.

Q. And since you've been around Rockingham County you also know that Mr. Alderman actually writes a report to parents and stakeholders. Would you agree to that?

A. Agree to what? I know that he was a County Correspondent back years ago, but I'm not aware of any other platform.

Q. Maybe a better way to phrase it. You would agree that Mr. Alderman has a newsletter or email exchange with parents, students and stakeholders?

A. I would agree with that, yes.

Q. And do you recall when Mr. Alderman, acting as the vice-chair, brought a parental petition against Mr. Nasar and I think two or three other school board members?

A. I remember, it's only hearing. I only remember hearing about that. I don't remember who that was.

Q. Did you remember a hearing that Mr. Alderman successfully brought two school board members removed, one of whom was Mr. Tamm and the other one was Karen Frost?

A. I remember hearing, then, that, yes, I don't even remember what their name was.

Q. And similarly whether or not a public official is legitimately qualified to serve in a matter of public concern. Do you agree with that?

A. Yes.

Q. And can you also attest that on April of 1992 Mr. Admonian was the elected board member, and when Russell Pined was the president and Mr. Vance was a board member that he was trying to rule by majority rule, and do you remember that the state of board had been arrested because of that?

A. Only loosely, that's all I remember.

Q. And do you remember through hearing that as a result, it was when I was arrested, did you also hear through Senator Dotson who was instrumental and very instrumental in preventing him and putting me jail for that?

A. I do remember ever hearing he was instrumental. I do remember hearing he was removed from a school board meeting.

Q. Do you remember hearing that he was charged with treason?

A. No I don't.

Q. Do you remember hearing that Mr. Admonian filed a federal Civil Rights Case over that?

A. No I do not.

Q. Do you remember hearing that as part of that settlement of that lawsuit that the Board formally apologized publicly to Mr. Admonian for their conduct in violating his constitutional (unintelligible)?

MR. DALE FLY: Objector. This witness doesn't really form (testimony) with all that.

JUDGE SPATACORI: (handing)

MR. HODGES: Well, he testified that he is concerned about things that Mr. Adelmann did not tell concern about him. I'm entitled to know that the things that Mr. Adelmann are legitimate and constitutionally protected interests and number of that alleviates his concerns.

MR. MADDOCK: You and your people need to prove that to me though.

JUDGE SPATACORI: Right, I mean we've got all that evidence in the record.

Q. You don't (testimony) anything you said about any of that legitimate?

A. No, I do not. Like I say, I wasn't there, so

MR. HODGES: I have no further questions, Judge.

JUDGE SPATACORI: Go for it.

MR. BAILEY: Just a couple of brief follow-ups:

REMARKS

BY MR. BAILEY

Q. Mr. Adelmann, you testified on cross-examination that you were open to his admissions when he had conversations with you and discussed consequences when if you or a shooting in which he turned concerns with the board over golf teeing?

A. Right, that's correct.

Q. And you've also testified about your observations and concerns over Mr. Adelmann's conduct during this trustee hearing?

A. That's correct.

Q. Is there any connection between the fact that you were upset with Mr. Alderman's speech at the school board meeting, I would say I was professional enough that I could separate the two. Yes, I had issues with Mr. Alderman over the golf money and the way that I felt like we were being treated, but that had nothing to do with the hearing. I mean I didn't go upset the board, the board meeting. And I would hope I was a strong person and a professional enough person that I could separate the two, which I did. And so I was concerned the golf issue was over with when this meeting happened.

MR. HALEY: Okay, next.

JUDGE SPATZAFORI: You are correct.

A. That were separate issues. The golf situation had nothing to do with Mr. Alderman's speech at the school board meeting. I would say I was professional enough that I could separate the two. Yes, I had issues with Mr. Alderman over the golf money and the way that I felt like we were being treated, but that had nothing to do with the hearing. I mean I didn't go upset the board, the board meeting. And I would hope I was a strong person and a professional enough person that I could separate the two, which I did. And so I was concerned the golf issue was over with when this meeting happened.

MR. HALEY: That's all I have.

MR. HELDORN: The golf issue was over and yet you still attended the transfer hearing?

MR. MADRICH: That was two separate issues. The golf issue, the golf issue was because my son was on the golf team. The transfer hearing was because my daughter, which is still in high school and will be in high school for three more years. That was my concern.

MR. HELDORN: But when you had that concern, you didn't know the benefit of observing what was transpiring during the transfer hearing?

MR. MADSEN: I already know prior to this point was that Mr. Alderman had his address teaching my daughter in school.

MR. HUBER: Your Honor, do you have direct access to that information?

MR. MADSEN: Then I didn't need Mr. Alderman teaching my?

MR. HUBER: Yes.

MR. MADSEN: That is true—

MR. HUBER: Understanding.

MR. MADSEN: Absolutely.

MR. HUBER: And, I think you answered this, but we never sought information from the school board concerning actual evidence about how Mr. Alderman reported his duties during his 12-year tenure as an employee of the school board?

MR. MADSEN: I didn't need to, no.

MR. RALEIGH: Nothing further.

JUDGE SPATACORI: Okay. Thank you sir.

MR. MADSEN: Thank you.

MR. RALEIGH: Could you ask Mr. Siegel to stand in please?

MR. MADSEN: Can I leave?

JUDGE SPATACORI: Yes, you're free to go.

MR. MADSEN: Wednesday I don't need to be back Wednesday?

JUDGE SPATACORI: Please.

(Witness bows)

SUMMERS: Thank you.

DEPARTMENT OF JUSTICE, FEB 1997

RECORDED: TRANSCRIPTION SERVICE
(314) 575-1482

Please have them ready to tell the judge exactly as follows:

卷之三

1770

- Q Mr. Roger, could you please state your full name?

A My name is Steven Michael Roger.

Q And where do you currently reside, Mr. Roger?

A I live in Adelanto.

Q And what county is that?

A San Bernardino County

Q And what's your occupation there?

A I'm a construction supervisor.

Q And what's your place of employment?

A I work for the National Radio Astronomy Observatory.

Q And is that a Federal Agency or a private agency?

A I work for the Associated Universities which is a, that's an organization that's funded by the [unintelligible] Minister of the National Radio Astronomy Observatory.

Q And how long have you been a resident of San Bernardino County?

A About seven years.

Q And do you have no occasions from time to time to attend meetings of the San Bernardino Board of Education?

A I do.

Q And did you attend a meeting involving Mr. Adelante's binder hearing?

A Yes.

ПОДАЧА ТЕХНИЧЕСКОЙ ПОДДЕРЖКИ

(Q) And do you remember the reason you came to attendance at the particular meeting?

(A) I attended that meeting because it was a trustee meeting. I attend those because generally I have a vested interest in which trustees teach where I have children go the system.

(Q) How many children do you have in the system?

(A) I have three.

(Q) What are their ages and grade levels and where do they go to school?

(A) I have a daughter who just graduated. I have a son who is a sophomore and a son who is a freshman this coming year.

(Q) Where, the children that you are going to have in the system and just where will they be attending?

(A) My last one just graduated from Bush Middle School to the high school this last year, Franklin Center High School.

(Q) And were you at the meeting because some type that Mr. Albrecht's agenda having such place?

(A) Yes I was.

(Q) And were you seated on a chair or in generally table position to give consideration what occurred?

(A) I could see everything, yes.

(Q) Could you hear everything that occurred?

(A) I could.

Q. And could you tell the Administrative Law Judge what you observed as to the way Adkerson's treated during the hearing?

A. I observed that Mr. Adkerson behaved at times that I have never seen. For a medical engineer, I work with highly skilled workers. I've worked with certified drivers. I've worked with merchant seafarers and construction workers and I've never seen anyone before that has been addressing their employer. I was disrespected. I've just never seen anything like it before.

Q. And specifically, what did you find objectionable?

A. Well, he did not, the morning, had no agenda. We were all there for a reason. And that was never addressed while we were there. He was reading his notes around, making accusations. He was barking at the Board. He was, he said more things than I thought had no place in a public forum at a public meeting.

Q. Do you remember any specifics?

A. Well, he seemed very fond of calling an employee "the stupid". On Law and Order kind of being clever. So, you know, whether or not that's untrue, or whether or not that's true, it's irrelevant in the reason we were all there that night. And the, at one like a personal attack, on these people. I was embarrassed for anyone who was there, because the newspaper was there. I was embarrassed that we would have a professional working for our school system who was behaving in this manner. Like I said before, the people who I've worked with, none of them don't have a professional code of conduct. Skilled workers don't, merchant seafarers don't. But I've never seen anybody act like this and that kind of behavior is addressed your employer in addressing issues.

Q. Did you observe Mr. Vines interacting with Mr. Addman?

A. Yes.

Q. How would you characterize Mr. Vines's interactions with Mr. Addman?

A. Order. Trying, attempting to keep things in the peace. Attempting to keep disrupters from impacting the agenda. Attempting to get business done.

Q. Do you have any concerns as a citizen, parent of Rockbridge County should consist of the manner you observed to be allowed to occur at those meetings?

MR. HEDDER: Objection. Leading, accusations, advocacy.

JUDGE SPATARIKIS: I'll rule that one overruled. On record and agreed.

A. You have to have order in order to be able to conduct business. And you can't have someone come in and be able to just go off on the board. To just start disrupt and bringing up issues that aren't typical of the business at hand. If there is issues, they should be addressed, how they should be addressed in a manner that is becoming him, that is professional. We expect teachers to be professional. We expect them to be professionally both at the community and in the school.

MR. BAILEY: That's all I have as direct questions of Mr. Hayes.

JUDGE SPATARIKIS: Over. Mr. Baker.

1.0000000000000001

BY MR. BAILEY:

Q. Sir, my name is Jason Baker. I represent Mr. Addman. Before we get to Mr. Addman's case I really have one question for you. Is it true that the teacher is the largest meeting attendee in the history of the observatory?

RECORDED TRANSCRIPTION BY RONALD E.
(540) 329-1482

- A Yes.
- Q How do you know him?
- A It's Mr. Headmaster-Dickey
- Q And how long have you known him?
- A About seven years.
- Q Did you have any discussions with him about the hearing?
- A No, I don't think so.
- Q Well, when you were sitting out there today did you have any discussions with him?
- A We didn't discuss much about the hearing, no.
- Q Did you discuss anything about the hearing?
- A I don't think so.
- Q Nothing at all?
- A No.
- Q You don't like Mr. Headmaster, do you?
- A I don't think that you can have that conclusion.
- Q I'm asking you?
- A I'm not telling you.
- MR. WILSON: Well, Judge, he has a relevant
- JUDGE SPALDING: That is relevant, so you need to answer.
- Q Just be honest. If you don't like him, you don't like him. You're entitled to that opinion.

A. I don't know Mr. Alderson personally. But, much of what Mr. Alderson does, I am an informed citizen of Pocahontas County. I try my best to keep on top of what's going on and I can tell you what I don't like the traits of Mr. Alderson's behavior.

Q. Now some of the traits of his behavior though, have been successful. For example, were you aware that one of the traits of Mr. Alderson was when he brought a removal action against Pocahontas County school Board members and successfully removed Russell Pool and Mr. Vassar? Were you aware of that?

A. I don't know that I would consider that a successful action.

Q. But more personal of it?

A. Yes.

Q. And you were aware that he represented himself?

A. No.

Q. Well, you may say that he (had) a lesson there is, correct?

A. Yes.

Q. And you were aware that that that you mentioned in removing two public officials?

A. Tell.

Q. And another trait of his behavior was another action lawsuit where Mr. Alderson sued the Board after he was arrested while attending a Board meeting. Do you recall?

A. But are you trying to convince me I'm wrong, I mean are we going to go through all the things he did or are you just going through the things that...

Q. I'm going to go through the things that I want to go through when I'm investigating the case now because, Now are you aware that he filed a lawsuit over that arrest?

A. Yes.

Q. And of course you would agree that public officials and public agencies have to respect the constitutional rights of citizens?

A. Yes.

Q. And you would agree that a citizen who demands a public agency to recognize that they have to respect constitutional rights is a positive that of his/her?

A. As long as he is within the boundaries of appropriate behavior, yes.

Q. And it's important for public officials to respect those rights?

A. Yes.

Q. And were you aware as part of the basis of his lawsuit that he was that he received a formal apology from the school board for their actions?

A. Yes.

Q. And were you aware as part of the settlement of that lawsuit that the school board was required to undergo training concerning the First Amendment?

A. Yes.

Q. And did you attend any of that training?

A. No.

Q. Were you aware that they were required to undergo training concerning the Open Governmental Proceedings Act?

A. Yes.

Q: And you were aware that the person who had won that day had Mr. Alabama invited because he tried to file a board meeting?

A: I understand he was invited while trying to file a board meeting, yes.

Q: Did you attend any of that meeting, the publicly announced meeting?

A: No, I did not go the Board.

Q: Were you aware in the months leading directly before October 2010 if anyone?

A: Yes.

Q: And so when you made that decision, you made that decision independent of anything that happened at that trustee hearing because it wasn't correct, incorrect?

A: Yes.

Q: And, are you aware that Mr. Alabama has been on the Pinellas County School Board since the 2000's?

A: Approximately. I know he is on the system. I had no idea how long.

Q: Were you aware that he at one point received Teacher of the Year?

A: I am not. I do however have employees who work for me that talk about Mr. Alabama....

Q: I'm not asking you, I'm asking you about were you aware that he received Teacher of the Year?

A: No.

Q: Were you aware that he, yes it's unadopted. Were you aware that as a 20 year employee neither taught nor volunteered nothing?

A. Yes.

Q. And can you recall during 2009 your employer Mr. Alderson having or an intended intended interview meeting?

A. Yes.

Q. And are you also aware that one of the goals of Mr. Alderson's interview was to substantially assist the school board in developing his technology program? Can you tell me if you are aware of that?

A. I've never been advised.

Q. Are you aware that he has substantially assisted the school board in part of the basis of the later developing technology that is finalized in the school board and public systems?

A. I can't answer that question, because if I answer you'll now know the worked on it.

Q. That's all I'm asking.

A. No because I am not necessarily conversed that he did.

Q. Well if I represented to you—

A. Please do.

Q. Well if I represented to you that the testimony has been that he substantially contributed to that, you don't have my name or personal knowledge, is despite that?

A. You like I've seen the evidence that he's contribution. Previous some of the other things he's worked on with respect to technology for the school board and have hardly been undervalued.

Q: Are you aware that during this 28 year history when he taught at the classroom setting when he taught as a homeroom teacher or setting and when he's worked with technology whether you agree or disagree with the quality of work that the school board has done and believe in discipline Mr. Alderson?

MR. HUBBELL: Objection. There has been no foundation and this witness would even be aware of.

MR. HUBBELL: That's what I'm asking. I asked him if he was aware of it.

MR. HUBBELL: Well, I mean, just never asked him whether he had any issues in his personal life or his personal history.

MR. HUBBELL: He might be aware of it through some other power. I am just asking, are you aware?

Q: Well, let me say this to you. Do you have any reason to believe that the Board of Education is threat drudging every out to against Mr. Alderson.

A: I have no way of knowing, and the most recent one

MR. HUBBELL: Okay. Can I have a recess lady?

MR. HUBBELL: We'll go off the record.

(MR. HUBBELL goes into a brief discussion with his off the record.)

MR. HUBBELL: Okay, we're back on the record.

MR. HUBBELL: I don't have any further questions. Actually I do have one quick question.

Q: From you aware that they harassed Mr. Alderson?

A: Yes.

Q: And you don't mind the harassment comment?

A. I did not.

MR. SILVER: I have no further questions.

JUDGE SPATAFORI: Mr. Bailey, my follow-up:

MR. BAILEY: No, Your Honor.

JUDGE SPATAFORI: Okay, thank you sir.

(Witnesses leave)

WITNESSES:

ALICE IRVING

Having been first duly sworn to tell the truth, testified as follows:

DIRECT EXAMINATION

BY MR. BAILEY

- Q. Could you state your name for the record please?
- A. Alice Irving.
- Q. And whom are you currently employed, ms. Irving?
- A. At the Poughkeepsie County Board of Education office.
- Q. And what's your position there?
- A. Associate Superintendent and treasurer.
- Q. And could you outline your professional history with the Poughkeepsie County Board, please?

A. I began in 1979 as a teacher at Poughkeepsie County High School and I taught mathematics and business at that school until 1988. I moved into the Board office in 1989 beginning as the treasurer and I also was responsible for purchasing. Then I was there one year. I served as an interim superintendent for a period of time. Then as the

TRANSCRIPTION SERVICE
(800) 878-1288

your train along those you purchased items were mailed to until I moved to Pinellas a trained bus then became associate transportation director. Within that job responsibility I've been responsible for transportation, maintenance, mostly director of the department.

- Q. When was your last job as associate transportation?
- A. Last I was, a year or two, I believe.
- Q. And Mr. Davis, were you in attendance during Mr. Allderman's interview (unintelligible) in the spring of this year?

A. Yes I was.

Q. And why were you in attendance?

A. I was there to help him things. Then I was asked to record the hearing, all the hearings and this one as well. I was also asked to oversee witnesses and to keep all the files and make sure we get everything together, the agenda and to write take back to the Board office if they need to be transcribed and to take care of that.

- Q. Did you bring anything to describe the difficulties existing in connection with the transportation of a resource student that Mr. Allderman be transferred?
- A. No sir.
- Q. Transportation doesn't involve a lot of paper?
- A. No sir.
- Q. The same salary level, just different location, different board?
- A. That's correct.
- Q. Did Mr. Allderman give you any advance notice that he intended to make arrangements against you last evening?

A. Those were messages from the Evans, which is a welfare, that he wanted me to move Dr. Low and his threats and he indicated it would be this information would be presented at the meeting.

Q. Did he personally orally you and indicate to you that he had any concern about the way you were conducting your (unintelligible) responsibility?

A. Not, no sir. He asked me for some information through a Person of Influence about some money that we had for golf money. But that had been back on the 5th. But not immediately before the hearing.

Q. Did you have any role in terms of the decision made by the Board on the course of the superintendent's recommendation that Mr. Addisian be transferred? Did you go another route with them and suggest an alternative or available to their deliberation on deciding whether or not to approve the superintendent's recommendation?

A. No sir.

Q. Did you know my sir why Mr. Addisian's position of you during the particular hearing would have been referred staff?

A. I'm still trying to figure it out. I have no idea.

Q. Let me ask you how would you characterize Mr. Addisian's conduct during that specific hearing?

A. It was a total shock. For someone to yell the name, named of relating to the Board who were the diverse audience really we should keep his present job intact, to spend less time going around the table building and making accusations about to Board members and to the Law and I. And at all the hearings that I have attended, I

I have never had anyone addressed me. I've simply shown in emails. That may say only purpose is being there. That was my only purpose is being there that evening.

Q: Are you familiar with the Professional Code of Conduct?

A: Yes sir.

Q: And that code of conduct requires professional behavior by teachers, correct?

A: That's correct.

Q: What's your understanding of why that sort of professionalism is required?

MR. HANSON: Your Honor, I'm going to object. She already established she did not and does not participate in those decisions making processes. She is asking questions of, regarding why it is important or relevant to the ultimate question that the Plaintiff is presented with. And it's also duplication. We heard from another who did participate in the decision that we witness as to why they allege that it was relevant.

JUDGE SPAULDRIDGE: Mr. Buckley?

MR. BUCKLEY: I'm not sure I understand the objection, but I'm asking the witness on her capacity as a former superintendent and a long-standing professional educator with Pottawattamie Schools prior background to comment relative to the Professional Code of Conduct. Why she believes that is relevant and why she believes it has place.

MR. HANSON: Mr. Law specified in their motion for the court's expunction order, I don't know that what happened in the past has any bearing on that.

MICHAEL MATAJURK: It may or may not have social references, but you can answer the question.

A. The Professional Code of Conduct et. al. Franklin County is very important. It sets off school systems. There is a certain expectation that people in our school system are to have respect and to treat the people in authority their school principals, the people they work with, the superintendents and the Board in a respectful way. We can disagree and work out our differences, but we don't go out and call people names and threaten and make accusations. We have to have some sort of order in our school system. We expect it of students. We have a Student Code of Conduct and if a student in a classroom does not obey the rules and treat people disrespectfully, then we deal with it. And we deal with the same with teachers. It's important. We live in a small rural county in Pennsylvania where it's expected.

Q. One of the last of behaviors that Mr. Alderman gave them in sight of the monitoring, more liberalized, what kind of excuse would that lead to students?

A. Well, it would probably—

MR. HERRICK: The specification and relevance again, Your Honor.

MICHAEL MATAJURK: I'll note the objection. You can answer.

A. The behavior that he exhibited that night would definitely need a reason to students that you can say anything, do anything to anyone that is in a position of authority. It can also send the same message to our other employees. I don't spend our time trying to deal with people that are being very disrespectful to Dr. Low or to the Board members and we can't get our business done. I mean there are certain things that we are trying to deal with the discipline of our students in our school. We have a high

classroom areas, particularly Pennsylvania County High School. You're trying to keep students involved and this kind of message, don't have employees who are telling people how and where and not being respectful while at the same time understanding that you you-overlooked, but there is a way and there is a moment a place to do. And that diversity was not the place nor the place nor the way to deal with people.

Q. Mr. Allderman during the transfer hearing, page 12, he says I want to talk about Alisa from home. I want to talk about the Law. These two people and I I say to you that you're a thief. And want me to say, now you tell me these people are going to judge me. I didn't steal any money from the golf course. Do you know any other what Mr. Allderman is talking about when he's accusing you and the Law of stealing money from the golf course? Did you have any access to money maintained by the golf course that you could pocket your pocket and steal it?

A. No sir. The golf course, the money that was raised by the golf course, a would never placed through the school accounting. And I had no knowledge whether the golf course bankruptcy or not. So I have no idea what.

Q. And later during the hearing he says, Alisa you're not going to get me because I'll have you removed. We'll get a removal petition against you if necessary because you have stolen and they are bad enough. You are not that lady. You are not going to judge me when you have done things far worse than I've done. I've never taken money from anybody. Did you have any capacity in involving or helping Mr. Allderman in opposition to the transfer?

A. No sir.

(Q) In terms of your reputation, were you considered the Mr. ALBRIGHT publicly somebody of standing, influence and being?

(MR. HALLIGAN) Objection, relevance concerning his reputation. That's not what we're trying about.

(MR. HALLIGAN) Well, does he hold a position in the school system of trust which may influence.

(MR. SPATZAPSKI) You can answer the question.

(A) I've been very open about the fact. And particularly the night of the hearing. After the Board rejected themselves in giving an incentive instance, I had one member of the audience.

(MR. HALLIGAN) Objection, that's history testimony concerning what any members of the audience said.

(MR. HALLIGAN) I don't have any problem with you bringing weight.

(MR. SPATZAPSKI) I don't think history and give all the appropriate weight, to go ahead and answer.

(A) I am a member of the audience and one of the makes twenty-five hundred dollars. I have been especially asked at church, the grocery store, the community. We live in a small, semi-conservative and everyone likes everyone else makes pretty much. And particularly if you were a teacher for many years, you know all your former students. And I've never taken any money from anyone. And I did not steal twenty five hundred dollars from golf money from anyone.

(Q) Do you have any problem with Mr. Albright raising questions about how golf money is handled?

A. I have the problem with anybody that comes into the instead of Education office to ask for any information. We have been very backwards to provide this to any individual or any group of people that come in and ask for information. Why to make the place a very open place. The Board of Education has done the same for years and years. When I first started to work at the Board of Education office the Board meetings were not as open as they are now. People can express no opinion, they can offer suggestions. The Board is very willing and open and they have moved the Board meetings to different areas of the county to accommodate the staff and to accommodate the community people. So I have no objection to anyone asking for information. But I don't think it's appropriate to get up and all comment on that publicly.

Q. Mr. Lewis, were you a teacher at Piedmont County High School when Mr. Allerton was named Teacher of the Year?

A. Yes.

Q. Who else Teacher of the Year for the entire county?

A. Well each school, the five schools, each nominate a teacher and then there was one county teacher chosen from that pool of five individuals.

Q. And how did Mr. Allerton, who he choose a teacher at a particular school?

A. At Piedmont County High School.

Q. And was he ultimately chosen Teacher of the year for the county?

A. No.

Q. And was there certain criteria that is used to identify the teacher about student achievement or some such at the school?

A. No.

Q. Now is that true?

A. It was conventional wisdom from the group of teachers and school officials was difficult to get individuals that wanted to be nominated Teacher of the Year from

Pocahontas High School because we had many people that worked very hard and you had to go through a lengthy application process and interview the school at regular wage and most people just would decline to be nominated for many years or consecutive / and a year or open nomination mostly by the teachers

Q. And it was wisdom by the teachers of the school?

A. Yes.

Q. When was this, was it recently?

A. No. It would have been / I'd say sometime in the 1990s. Until around 1990 to 1995 nomination / believe that was.

MR. BAILIFF: I think that's all I have on direct.

JUDGE SMITH: Okay. Mr. Hader?

CROSS EXAMINATION

BY MR. HADER.

Q. Mr. Irvin, my name is Jason Hader. I represent Mr. Alldredge. Stability as you know I've represented him in the past. Two testified that the school board is, I can't remember the exact words, but that go to certain and close to individuals and then comment about the school board, correct?

A. That's correct.

Q And the school board thought there was necessarily always, from their writing and eyes, at least in regards to Mr. Adlesack, less than?

A I have never known any (but that they haven't stated them the same as you've done).

Q Were you on the Board when on April 10, 2002 he was removed as a school board member?

A I was never on the Board. I have never been—

Q I'm sorry. Were you an employee of the Board at that time?

A Yes.

Q Were you an attendee at that meeting?

A Yes, I was.

Q And you were aware that Mr. Reed tried to reduce Mr. Adlesack the night of video tape that evening?

A That's correct.

Q And that's what resulted in his arrest, correct?

A I don't know the details of his arrest.

Q Well you were there, right?

A Well, I wasn't able to make a phone call to make a date for a meeting that he had with him that evening. So I wasn't at the meeting. I mean I left the room.

Q You didn't even witness?

A Notably, after, well as far as being taken out on the grounds of his being witness out...

Q. So you saw everything from him (wrote in several) he came up and the point where the police officer was hitting him out?

A. Yes.

Q. And you were aware that there was litigation around that, correct?

A. Yes.

Q. And you were aware that the pinellas delegation, as part of the conditions of that litigation the Board was required to formally apologize at open to Mr. Alderson?

A. That's correct.

Q. So then the Board, then back to my original question, how is it necessary always been open and willing to accommodate Mr. Alderson because certainly we would agree that having somebody arrested for engaging in constitutionally protected activity is not open and willing accommodation, correct?

MICHAEL TAYLOR: I'm going to object (possibly) if the Board had anything to do with the arrest.

Q. Do you think that prohibiting somebody from politically disrupt a public meeting, disrupt and willing accommodation?

A. Well, if he should have been permitted to film the meeting.

Q. So, you would agree that at least its respectful that the Board not not open and willing to accommodate his desire to review that constitutionality ...

A. He did, most, the Board didn't vote to not allow him to file the meeting. That was a decision made solely by the Board president. Not by the Board.

Q. Well did you approve that decision at the meeting? Or did anybody oppose that decision at the meeting?

A. Yes, it does.

Q. Under oath?

A. I don't recall ever swearing, but I don't know for sure. I would have to see a copy of the minutes. I'm not sure.

Q. And you were aware that as a result of the litigation and the settlement that the Board was required to undergo a certain type of training, correct?

A. That's correct.

Q. Did you attend that training?

A. Yes.

Q. And then, concerning as regards to the First Amendment and in regard to Open Government Proceedings Act, answer.

A. I wasn't responsible for that. I just went to the meeting.

Q. Did you attend it?

A. Yes.

Q. And it was put on by the Attorney General's Office, or someone from the Attorney General's Office?

A. I don't remember.

Q. Do you remember大概是誰做的是第一項活動嗎？

A. Yes.

Q. Now, you testified that, will let me ask you about this award for the Teacher of the Year. You're not saying Mr. Alderman didn't become Teacher of the Year, are you?

A. I don't know the answer.

- Q: Do you understand to what you mean I'm trying to discern if he did?
- A: And it was like charged.
- Q: Were you in attendance at his termination hearing?
- A: No.
- Q: You didn't attend the termination hearing?
- A: No sir.
- Q: You didn't attend it or have any...?
- A: No sir.
- Q: Why not?
- A: Dr. Rose had secured a court reporter to do the recording.
- Q: Did you review the transcript of the hearing?
- A: No I haven't.
- Q: Do you don't know the statements that he made in respect to the transfer hearing, he made likewise in the termination hearing?
- A: No sir. Those are two it.
- Q: You also were positioned since Code of Conduct and staff file that as the part of school board employee and as long term representative you are also aware that there is a code, what's it called in Pennsylvania Discipline, Chapter?
- A: Yes.
- Q: And if I represent to you that that's Mr. Alfonso's file suffice that personnel file he has never been formally disciplined or represented in any way, can you disprove that?
- A: Well, I have to see the file.

(Q) Have you ever interviewed the Ms?

(A) No.

(Q) Do you know Draper P?

(A) I haven't seen the Ms.

(Q) And is the sense of progressive discipline at this school that, and I believe every one of the members of the school board if I am correct in my belief, it shall be the policy of the board to strive to work personnel in every way possible to adjust their positions and to position them more satisfactorily. Do you agree that that is also a policy of the school board?

(A) Yes.

(Q) And in respect to those two policies, former faculty, "You're aware that they increased taxes?"

(A) Yes.

(Q) A 20 year employee, they increased her benefit or the comfort and the aspects of the I was surprised to know. Is that your understanding of the issue of taxation?

(A) I didn't, I didn't know why the commissioners had held. I wasn't on the commissioners meeting.

(Q) Do you know, or have you ever interviewed the State that Dr. Low would be former accounting information?

(A) I talked to Dr. Low myself.

(Q) And where were you listening to him, and all?

(A) In his office.

- Q. And who else was on the call?
- A. Mr. Treador.
- Q. Anybody else?
- A. No, just Mr. Allderson.
- Q. Okay, who is Mr. Treador?
- A. He was, he was a director of Pottawattamie. He used to be the school officer.
- Q. So after listening to Dr. Bass read the transcription letter, you are aware that the transcriber was based on his (involvement) at that broader hearing and some things that he said earlier today, correct?
- A. It was based on his behavior at the hearing, because he is, his behavior is causing us an administration and the Board-as-a-Board of education not to do their job.
- Q. On the one occasion of that Board meeting their job was to wait on Mr. Allderson's broader concern?
- A. In which Board meeting?
- Q. At the broader hearing that you are referring to where you have questions about his conduct, the subject of the issue at the meeting that they were going to conduct was Mr. Allderson's concerns about his son?
- A. Correct.
- Q. And although you disagree with how he presented those concerns and the comments that he made, at the close of the hearing, well to the back up, DR. YOUNG, you don't specifically recall Mr. Wasson ever calling Mr. Allderson out of order, formally saying you're out-of-order?

Q: I'll make it more general. Any meeting prior to the trustee hearing with you prior to attendance when Mr. Alderman raised his concerns about possible misappropriation of funds as respect to the golf fund?

A: Yes.

Q: And at that time you were the treasurer, correct?

A: Yes.

Q: How did any of that money ever come through your office?

A: Yes.

Q: And you actually, I think, maybe wrote, a check in respect to some of the funds that were received, did you not? In terms of distributing it out to the school system or something?

A: Yes.

Q: Okay, so when you were asked by Mr. Buckley about whether you had any involvement in this money or not, in fact you did receive that money and then cut a check to spend it, to put it back out in the school.

A: Well, not according to the question that he specifically asked me.

Q: But in effect, my question is, you were involved in the handling of that money?

A: Yes.

Q: Okay. And you would agree, will you know now or do know now that Dr. Low actually referred that to the State Auditor's office?

A: Referred?

A. No - no questions around more than he needed to discuss who we were here.
Q. Did anyone hold him out of order?
A. No because it was, in my opinion impossible. Every time he tried to speak is how he just continued going around to each person.

Q. So he never held him out of order and you disagreed with him or he would want to speak, just not what he said?
A. I disagreed with what he said and like why he said it.

Q. And that seems to be the issue, based on your recollection of Dr. Lamm meeting that involves your presence with Mr. Alderman there, is the issue for the last question, correct?
A. Well, without reading the letter again, I haven't read it.

Q. Well, I'm referring to you think does. And do I believe about the nature of his previous discussions right? Let me ask you this, was you at the meeting where Mr. Alderman presented his greatest concern to the golf expenditure?

A. A golfer?
Q. Well, his complaint?
A. Yes.
Q. And in that meeting he was concerned about an overexpenditure of money or misappropriation of money, correct?

A. Which meeting are you referring to?
Q. Before the meeting. A meeting prior to the January meeting where he talked about the golf course and the expenditures.
A. Are you talking about a meeting in the fall or in the spring?

Q. Following our discussion, did Mr. Adkinson present another question about the distribution of those funds to the new School Superintendent?

A. Sir, I wasn't aware of that.

Q. And you certainly would agree with me that it is a legitimate, it is a matter of legitimate public concern for a citizen to have, to be informed what the allocation of those school funds?

A. It is his right, sir.

Q. And it is more than what he asked about that, not the specific amounts for the prior meeting that we were discussing, he didn't call you about at that meeting?

A. No, but he presented documents that were, he presented a memo, an electronic memo, similar to the Board of Education saying that I had misappropriated twenty five hundred dollars, but the amount that he presented was actually five hundred dollar worth that pertained to the Reading Test Per year.

Q. So at least he might have been privy about his knowledge of the documents?

A. Correct.

Q. But he certainly has a right to know?

A. Right and he has a right to complain and ask questions.

Q. And that is what he did earlier morning and he did it in an open manner and there was no prior problem at that meeting that you stated that you observed at the time for hearing?

A. That's right.

Q. So what we've done so far is in terms of this Mr. you employee, several teachers of the year, several funds and kids in the community has worked as a capacity. Well let me back up, do you mean that Mr. Alderman worked in the capacity as a classroom substitute?

A. I worked with him.

Q. Okay, and are you aware that he has also helped the Board and the schools develop technology in most schools in learning?

A. Yes.

Q. And are you aware that he has also been a licensed instructor?

A. Yes.

Q. Okay, so we have the classroom employee that has no disciplinary system in his file whatsoever, but he helped disproportionately to all other members with the education of the kids learning and the Board based on the conduct under our learning specifications. Is that your understanding of the situation we have?

A. That's correct.

Q. And that is, is that your understanding of how the Franklin County School Board would use progressive discipline?

A. It might not be called progressive discipline, but we can't function in a school system when we don't have respect. We are disciplining our students. We are setting examples to teachers and professionals. And we are respecting certain standards and guidelines to be followed and certain codes of conduct to be followed. And we don't ignore and we encourage a fair resolution. We have thousands of experiences where if you have a problem or you have a concern, we will try to see if we can resolve your

involved or concerned and no one is to do what's right. But when it gets to the point where every single thing you do there is a problem or a question, and you appear at a public meeting, and you've posted information in advance, what you intend to do, when the hearing was scheduled for your employees, the terms of your employment. But you publish, what you plan to do by letting people and calling them there, and conducting money and when you go over a small amount like this Pocahontas, it's not right that I should be accused of doing something that I didn't do.

Q. Do we hold school board that is expected that education of kids, that even if Mr. Albrecht was correct, you agree that he had a legitimate right to question those expenditures?

A. Right. But he had no right to tell people where and how and
expenditures and those are words that no employer should have to put up with. We have
school business to conduct. And the term of office is to deal with those kind of things
politically. We have stated administration to every about. We have the highest discipline
rate in Pocahontas County. We are working on new programs to curb those problems.
And most of all we're wrong on example. And if we as professionals do not set an
example to the students that we work with and to the parents and to the community, how
are we ever going to get any addressed accomplished. How are we going to better our
and prove and make our students better citizens?

Q. My question to you was a right of the 20 years of service that he has and
to right of the fact that the contract that was used to justify the suspension elapsed over
a 20 month period at a smaller hearing where the Board considered their findings and did

needs too, decide to terminate him, is that your understanding of the progressive disciplinary policy that the school board follows?

A. The reason or which he spoke to the reporter, the Board of Education, the Board president sitting here today, our superintendent, and all the other board members and the audience, it was done in such a manner that there is no way that we can have him on Board if we have employees who have no more respect for their professionalism as a community and as their respect for students....

Q. Did you ever give Mr. Alderman a chance to discuss how that behavior is the future?

A. What's what sir?

Q. Are you aware of whether or not the school board ever gave him a chance to explain from that behavior in the future before terminating?

A. What's what Mr.

Q. It's a yes or no question. Did they give him an off? I'm asking a yes or no question. Did you give him an off to take from the board in the future before they terminated him?

A. Not like Mr. Alderman....

Q. That is a yes or no question.

A. No, as it isn't, because.....

JUDGE STATAPOLE: We don't have to see you or not if that's not her answer.

A. When Mr. Alderman was taken out of the Board of Education meeting prior to this incident, he was asked that the Board apologize and they knew there is a problem he expect an apology. And he apology to me say that I have never done

anything wrong. And if you think and believe that you're always right and you have the right to question anybody, at anytime, in any place, in any way, then the Board of Education would have every right to believe that he's never going to change. We can't manage a school system where we have people who are *destroying* our people by calling us bad and then say what it's not true.

Q: Did you ever have a confrontation with Mr. Lass or anybody else that, or are you aware of whether or not there was ever an attempt to provide Mr. Alderson with the opportunity to change?

A: I'll tell you right off, he wants an apology. And if he is always asking for an apology, then I do not understand how he believes he's wrong. How can you change someone---

Q: Do you think that he asked for the apology?

A: No, I just believe that he's never going to change.

Q: Do you believe that, but you never provided him the opportunity to do that? Is that true or not?

A: I don't believe how to provide someone an opportunity to---

Q: Well as a superintendent of schools, certainly when you have problems with teachers, would you not do improvement plan something?

A: Well, but you don't have teachers on you, we've done improvement plans, but we have had certain problems with not being able to control discipline or problems with students or problems with---

Q: Was Mr. Alderson offered an improvement plan?

A: He's been---

Q. Was he offered an improvement plan?

MR. DAILEY (cont'd)

MR. HUNTER: It is a yes or suspension. Judge, this just responded to my question.

JUDGE SHATAPORI: Okay, you can say yes or no and then explain your answer.

Q. Was he offered an improvement plan?

A. Not to my knowledge.

Q. Was he offered a suspension without pay?

A. I have no idea.

Q. Was he offered a suspension with pay?

A. Why he was suspended without pay

Q. And so far as you know the only disciplinary action that the school board considered except to fire our monitor is one in his case having for the 20 year employee of the school board was termination. That is the only alternative that was considered, wasn't it?

A. I would have no knowledge.

MR. HUNTER: I have no further questions.

JUDGE SHATAPORI: Mr. Bailey?

MR. BAILEY: No, nothing.

JUDGE SHATAPORI: Thank you, Justice.

MR. BAILEY: Suspension was.

JUDGE SHATAPORI: Do you mind to take a recess?

MR. HUBER: Yeah, ma.

(JUDGE SPATAPORO ruled discussion was had off the record.)

JUDGE SPATAPORO: Okay, we're on the record.

MR. HUBER: I'm not going to present any witnesses. But I do have of course our documents that we submitted and my two additional documents on the CD that I have and we had a discussion off the record about it. You have heard it last night and I'm finally gonna try just the travel housing comment.

MR. ALDRICHMAN: There were three copies and, well, I have a full copy of the other one, but I didn't get the other copy here. What you've got is the travel housing. You will have to put it in your machine and (unintelligible) open up put one and open up whatever Microsoft's player is.

JUDGE SPATAPORO: So we'll have that and then I've got his personal file that I want to submit.

JUDGE SPATAPORO: Okay.

MR. ALDRICHMAN: You have copies for Mr. Bailey.

MR. HUBER: Yeah, I've got an extra copy.

MR. BAILEY: We want to avoid burdening the court with personal. I think a suggestion like an ex parte situation.

JUDGE SPATAPORO: I think it's just very clear from the evidence that all of his evaluations were positive and he was never disciplined.

MR. BAILEY: I mean it's up to you.

JUDGE SPATAPORO: It's up to you. I mean the Plaintiff is already not doing what she.

MR. HERRERA: Yeah, it's true. I think I did a little more research. I have to be honest, but I'd feel more comfortable, because there is one staff member that just the chance of disclosing, it's important enough, it's too much information. There's a lot of information in that memo, yet proving no negative. That's a lot of positive things in there. So I'm sorry if you know, believe me.

JUDGE SPATAFORO: That's okay. That's your choice.

MR. HERRERA: In short of that, that would be.

JUDGE SPATAFORO: Okay. You want the proposed file marked as our last exhibit?

MR. HERRERA: Yeah. And usually if there's anyway that the Board could actually, you know, after the hearing provide the full copy to the Judge as opposed to the Board, I'm not certain. Hand the copy over the envelope when I was at the office and I've commented that I showed something or things or whatnot. It came from you guys, you send it to me. I just wondered if since you have probably the closest most available copy, that you could you know, submit that to the Court.

MR. BAILEY: I just have one copy today.

MR. HERRERA: Yeah.

MR. BAILEY: But I could make it an extra copy and send it.

JUDGE SPATAFORO: Make another copy and mail it to me.

MR. HERRERA: Would that be okay. I just want to be accurate.

JUDGE SPATAFORO: Okay.

MR. HERRERA: That will be all I guess.

PLAINTIFF'S ATTORNEY: The CD will be Plaintiff's Exhibit #4 and the personnel file will be Plaintiff's Exhibit #7. And if there is no objection we'll admit those to the record, but the personnel file will be sent to the court. Okay.

JUDGE SPATZAPFEL: We discuss an additional witness that we were unable to get from either of the people we thought we might have heard from Mr. Hobbes, but her testimony would be corroborative with that of Mr. Rogers and Ms. Madole.

PLAINTIFF'S ATTORNEY: I think we would all appreciate not coming back for just one witness like that. Okay. Do you want to do witness today?

JUDGE SPATZAPFEL: Yeah. I would like to make a brief closing statement to you Judge, too.

PLAINTIFF'S ATTORNEY: Okay. Do you want to do that before we pick a date for witness?

JUDGE SPATZAPFEL: Okay to you. Yeah, we can pick a day.

PLAINTIFF'S ATTORNEY: Let's go off the record for a minute and discuss dates.

(WITNESS BRIEFLY A BRIEF DISCUSSION WAS HAD OFF THE RECORD.)

PLAINTIFF'S ATTORNEY: All right we're back on the record and Mr. Hobbes made a copy of the audio recording of the hearing and he's going to have that transcribed and I will have them up to the parties by the 10 working days the respective and then they're going to handle that. And we'll have transcripts both submitted by August 17th. Mr. Hobbes, did you want to make an oral closing?

JUDGE SPATZAPFEL: You Judge. I think you can see from the evidence throughout the day we have a couple of themes as regards to the transcription. One is obviously that it is in direct contradiction for protected activity. Everybody has testified and admitted to the

but also Mr. Alderson has been involved in at least two pieces of action, in general that were successful against the Washoe County Board of Supervisors. One was a Federal Civil Rights Action where they kicked him out in basically because of his speech or protected activity. And the other one where he successfully represented himself personally and removed the president of the Board personally from the Board and removed the former past president of the Board. And in addition clearly there is more than a prima facie case of retaliation in respect to those speakers. Also though, it's retaliatory because the conduct and speech that he engaged in, while we might not like it, and it may turn out later the conduct or speech that we would have chosen, and maybe at least at first isn't very artful and it was personally insulting to people or perceived such as that, it is still constitutionally protected activity. He did it in the context of either an informed item that he has a constitutional right to have, or he did it in the context of the transfer hearing. More about's moving from there over everything that he did without his attorney justly the termination. All of his speech, especially around the time of his having a privileged speech because it is done in the context of basically a clean proceeding or (inaudible) proceeding and in response to Mr. Alderson. No one of the speech was lawfully to be used during the hearing as basis for the termination. So the termination was rather in retaliation for the prior litigation, rather in retaliation for his constitutionally protected speech. Please notice that Mr. Bailey has actually outlined to them conduct throughout the hearing. But there was no problem with him, in terms of his behavior regarding his conduct in the hearing. He was never told out of order, he was never warned. He didn't physically attack anybody. He didn't threaten anybody. He was very articulate, and you know Norman's a speaker, that's what he does. And he was very excited and he was

upon but, my God, he was scared and upset in the context of a hearing hearing that he believed to be mandatory for his constitutionally protected activities, even though it followed the post was mandated that he would be upset about that. And then even if it is not mandatory, doesn't it be the basis for a termination because it was so willfully? Now what's also important about this is that they are using the very same method involved in the entire history of this case - never fail-and-succumb to school, that did not occur in respect to plaintiffs, that had nothing to do with his job as a teacher. That is one incident incident that occurred over 30 minutes or more in going to destroy a 20-year career with this school board. If everybody admits and everybody pretends that Johnson was a good teacher and he did lots of work and a lot of community service, 30-30 minutes can't wipe out 20 years, Judge. And then not into my progressive discipline agreement. It was striking to see that nobody ever called him a cheater. Everybody assumed he was lying. They were going to lie to the Kansas Attorney. They had the law which said even though the policy required him to assist employees in changing their behavior, they have a potential law with themselves. They made the decision to prosecute and as long as they destroyed this man's career, his livelihood, it's laughable. It's what he needs his family on. It's what he did when he grew up in West Virginia, or lived in Pennsylvania County. West Virginia. With just 20 minutes over 30 years. And I am the speaking out often because there's a lot of gives away that actually protect him and I've got rights for them if you want. But no, this I thought was particularly to point out, look how similar this is. This is a...

(10/03/2012 10:40:00 AM)

were to come in and give your uncalculated mark to my and their offices.
I would consider. And in that case the Sheriff: everybody's entitled irrespective of
these days without pay and was ordered to attend some training. So we have two
members of very similar prior conduct that after administrative law judge in the state
governance board have had you can't withdraw somebody for that. Over them, i mean.
And that's what didn't happen at the one judge. And that's why Mr. Albrecht should
be removed.

JUDGE MCGAUGHEY: Sir, kindly, did you want to make any closing statement?

MR. BAILEY: Yes. The random and earliest sense of what Mr. Albrecht did
is not protected. It is not protected speech. It is not privileged because you said it in a
hearing. And not only is it not protected, in this case it was a calculated insult. It
was a premeditated assault. The statement published by Mr. Albrecht that in the
office that brought up are going to expose the weaknesses in the Superintendent
Law and Allan Hovey, who has nothing whatsoever to do with this trustee division,
demonstrates that the Sheriff in not in I think a misguided effort to shield his conduct
by calculatingly only indicated that he would point to later on to prove that the
trustee treated him as opposed to a down-on-their-morale. He wanted to cast a
recorder whereby he could say, well I wasn't insulted based on legitimate reasons, I
was insulted because I crossed the superintendent and I was insulted because I
called him greater the number of Board members, etc on the merits. I think that was a
misguided attempt by him, but it was premeditated, it was calculated and it is not one
of the first and foremost that occurred with respect to those other disciplinary actions
that Mr. Hovey committed, but none of those employees were subject to a code of

conduct that required you to do. I have Department of Highways employees too, I think that was one classification of employees. And I don't really know whether or not those employees ultimately appreciated that a written letter would be good and make your list of a supervisor or group that supervises you? But what we have here, and I'll cover this more thoroughly in the proposed findings and conclusions, and it is probably best discussed by Mr. Allderman himself that he has, he is actually requesting that the Board of Education apologize to him. And if there is any negotiation to be had, and actually the response to the last of Allderman, the case doesn't present that opportunity. If you're going to negotiate punishment, it is with more assurance that the conduct that your dealing with is going to be categorized. In this case there is usually no appreciation, no acknowledgement, otherwise in this hearing that it was wrong to some people of Harvey and lying in order to obtain an endorsement. I mean there is no acknowledgement that it is ever anything to be concerned about. I think that the learning in this case possible to this point, and now that he has a right to do that. And we have heard from neighbors and people in the community, people who were at hearings about the reaction they had and the problems they saw in attending the sort of conduct and they are not common. They are not common. If you allow this kind of conduct to go unaddressed, you are engaging in a sense of condonation your ability to conduct your affairs as going to be undermined. And I think Mr. Allderman's conduct did have the effect of undermining the Board and its ability to carry out its duties and responsibilities and certainly of allowing for you back to the job with less protection and less than, I say, a right to such an supervisor and a supervisor very time I feel like it. Which I don't, he is saying. I again, I don't and protest a case that calls for investigation. Now if Mr. Allderman

MR. BRIDGES: That's agreed, so I'll go on to my final live issue now, because it's on point, I wanted to mention it to you. The last issue was Harrelson, then came Harvey and this was our progressive disciplinary segment. This was a 36 year employee with the Department of Highways. He became angry with his supervisor and made profane and insulting remarks. More specifically, Norman deliberately made profane remarks at him in front of visiting visitors. He also directed others to make fun of him in front of his supervisor. And Norman completely testified, never physically assaulted or threatened anyone. A disciplinary action was filed with the result with the termination. They dismissed an employee. He filed a grievance regarding reinstatement. Respondent, it was found respondent did not investigate cause to dismiss the Charging or right off mitigating factors such as length of employment, work record and other factors. And what they gave him was a 13-day suspension. A 26 year employee with a 13-day suspension that physically assaulted somebody. Mr. Adelstein was required to administratively protect speech and was terminated. There is also another grievance with the last name Frey and the last name Cheryl. Lived in New Castle that was. Dismissed was suspended for 20 days without pay following a three month suspension for offensive and derogatory comments he made about her principal and teacher tenure as the source of payola. Fortunately, there are written records of unprivileged conversations, another reason the teacher having to qualify, is privileged under the law. But when the last three things, derogatory and offensive comments, which if you believe the testimony the committee Adelstein is best used cause here does constitute derogatory or offensive. In this instance, the Board had terminated the individual and the Charging party got a three month suspension with pay plus 20-day suspension without pay.

that said, well that was a board member thing, I shouldn't have done what I did. I wanted to certain alighted of Board members. I wanted to educate the Board members and parents involved in might have no motivation than a few things. But let them? presented me with this the business of referring to people as like and there and contractors and you, you can't effectively run a school system and allow professional employees to person at that sort of behavior. And that's the reason that the decision was made. A progressive discipline policy does not allow repeat offenses regardless of the nature of the violation and the circumstances surrounding the conduct. It requires power look at each case on an individual basis and decide whether or not progressive discipline is appropriate or not. In this case I certainly didn't and we would urge you to uphold the decision of the Board to terminate Mr. Adelmann's employment. He is a 29 year employee, but his actions are what resulted in the outcome. It wasn't something the Board did to Mr. Adelmann. It wasn't some conspiracy or calculated effort to dismiss. It was what he did. What he chose to do. When he deliberately and grossly intentionally do do the conduct leads consequences to him. It wasn't anything the Board did. It was what he did.

JUDGE SPADA: Okay. That will conclude our hearing.